

Up to date as of 31<sup>st</sup> March 2015.

# Control of Pollution Act 1974

## 1974 CHAPTER 40

*An Act to make further provision with respect to waste disposal, water pollution, noise, atmospheric pollution and public health; and for purposes connected with the matters aforesaid*

[31st July 1974]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Part I Waste on Land

...

1 ...

...

#### NOTES

##### Amendment

Repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt II.

...

2 ...

...

#### NOTES

##### Amendment

Repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt II.

#### *Licensing of disposal of controlled waste*

### **3 Prohibition of unlicensed disposal of waste**

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

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

*unless the land on which the waste is deposited or, as the case may be, which forms the site of the plant or equipment is occupied by the holder of a licence issued in pursuance of section 5 of this Act (in this*

Part of this Act referred to as a “disposal licence”) which authorises the deposit or use in question and the deposit or use is in accordance with the conditions, if any, specified in the licence.

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

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

- (a) the waste in question is of a kind which is poisonous, noxious or polluting; and
- (b) its presence on the land is likely to give rise to an environmental hazard; and
- (c) it is deposited on the land in such circumstances or for such a period that whoever deposited it there may reasonably be assumed to have abandoned it there or to have brought it there for the purpose of its being disposed of (whether by himself or others) as waste,

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

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

- (a) that he—
  - (i) took care to inform himself, from persons who were in a position to provide the information, as to whether the deposit or use to which the charge relates would be in contravention of subsection (1) of this section, and
  - (ii) did not know and had no reason to suppose that the information given to him was false or misleading and that the deposit or use might be in contravention of that subsection; or
- (b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the deposit or use was in contravention of the said subsection (1); or
- (c) in the case of an offence of making, causing or permitting a deposit or use otherwise than in accordance with conditions specified in a disposal licence, that he took all such steps as were reasonably open to him to ensure that the conditions were complied with; or
- (d) that the acts specified in the charge were done in an emergency in order to avoid danger to the public and that, as soon as reasonably practicable after they were done, particulars of them were furnished to the disposal authority in whose area the acts were done.

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

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

## Amendment

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-ss (2), (3): words in square brackets substituted by the Magistrates' Courts Act 1980, s 32(2).

Sub-s (5): inserted by the Water Act 1989, s 190, Sch 25, para 48.

## See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## 4 Provisions supplementary to s 3

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

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

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

- (a) *any deposits which are small enough to be properly excluded from those controls or are of such a temporary nature that they may be so excluded;*
- (b) *any uses of plant or equipment which are innocuous enough to be so excluded;*
- (c) *cases for which adequate controls are provided by an enactment other than that subsection;*

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

(4) *< . . . >*

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

- (a) *the presence of waste on land gives rise to an environmental hazard if the waste has been deposited in such a manner or in such a quantity (whether that quantity by itself or cumulatively with other deposits of the same or different substances) as to subject persons or animals to a material risk of death, injury or impairment of health or as to threaten the pollution (whether on the surface or underground) of any water supply; and*
- (b) *the fact that waste is deposited in containers shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.*

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

- (a) *to the measures, if any, taken by the person depositing the waste, or by the owner or*

*occupier of the land, or by others, for minimising the risk; and*

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

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### **Amendment**

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-s (4): repealed by the Water Act 1989, s 190, Sch 27, Part I.

### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## **5 Licences to dispose of waste**

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

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

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

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

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

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

< . . . >

(5) < . . . >

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

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### Amendment

Sub-s (1): words omitted repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34.

Sub-s (2): first words in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 31(1); second words in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 23(1); words omitted repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34.

Sub-s (3): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 19(2).

Sub-s (4): words in square brackets substituted, and final words omitted repealed, by the Environment Act 1995, s 120, Sch 22, para 19(3); other words omitted repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34.

Sub-s (5): repealed by the Environment Act 1995, s 120, Sch 22, para 19(4), Sch 24.

Sub-s (6): words in square brackets substituted by virtue of the Magistrates' Courts Act 1980, s 32(2).

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

### Modification

Modification: sub-s (3) modified in relation to determinations made after 30 April 1994 as if the duty not to reject the application unless it is deemed necessary included the purposes of preventing the pollution of the environment and serious detriment to local amenities, by the Waste Management Licensing Regulations 1994, SI 1994/1056, reg 19, Sch 4, Part I, para 10.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### Miscellaneous

National Rivers Authority: the National Rivers Authority is abolished by the Environment Act 1995 and is replaced by a body corporate known as the Environment Agency; ss 2, 3 of the 1995 Act provide for the transfer of functions, property, rights and liabilities from the National Rivers Authority to the Environment Agency.

## 6 Provisions supplementary to s 5

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

(2) *< . . . > a disposal licence may include such conditions as [the appropriate Agency] sees fit to specify in the licence; and without prejudice to the generality of the preceding provisions of this*

subsection, any such conditions may relate to—

- (a) *the duration of the licence;*
- (b) *the supervision by the holder of the licence of activities to which the licence relates;*
- (c) *the kinds and quantities of waste which may be dealt with in pursuance of the licence or which may be so dealt with during a specified period, the methods of dealing with them and the recording of information relating to them;*
- (d) *the precautions to be taken on any land to which the licences relates;*
- (e) *the steps to be taken with a view to facilitating compliance with any conditions of such planning permission as is mentioned in subsection (2) of the preceding section;*
- (f) *the hours during which waste may be dealt with in pursuance of the licence; and*
- (g) *the works to be carried out, in connection with the land, plant or equipment to which the licence relates, before the activities authorised by the licence are begun or while they are continuing;*

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

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

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

- [(a) to maintain a register containing copies of all disposal licences which are for the time being in force in respect of land in England and Wales or, as the case may be, Scotland;]*
- (b) to secure that the register is open to inspection < . . . > by members of the public free of charge at all reasonable hours; and*
- (c) to afford members of the public reasonable facilities for obtaining from [that Agency], on payment of reasonable charges, copies of entries in the register.*

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

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

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

## Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.  
Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

## Amendment

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-s (1): words omitted repealed by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2, para 9(1).

Sub-s (2): words omitted repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34, Part II; words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 20(2).

Sub-s (3): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46; second words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 20(3).

Sub-s (4): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 20(4); words omitted repealed by SI 1996/593, reg 3, Sch 2, para 2.

Sub-s (5): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 20(5).

## See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## 7 Variation of conditions and revocation of licences

(1) *While a disposal licence < . . . > is in force, then—*

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

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

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

*and*

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

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

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

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

[(a) *the Environment Agency or SEPA, as the case may be, may postpone the reference in pursuance of the said subsection (4) so far as it considers that by reason of an emergency it*

*is appropriate to do so; and*

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

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

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

- (a) *that the continuation of activities to which the licence relates would cause pollution of water or danger to public health or would be so seriously detrimental to the amenities of the locality affected by the activities that the continuation of them ought not to be permitted; and*
- (b) *that the pollution, danger or detriment cannot be avoided by modifying the conditions specified in the licence,*

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

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

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### **Amendment**

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-s (1): words omitted repealed, and words in square brackets substituted, by the Environment Act 1995, s 120, Sch 22, para 21(2), Sch 24.

Sub-s (2): words omitted repealed, and paras (a) and (b) substituted, by the Environment Act 1995, s 120, Sch 22, para 21(3), Sch 24.

Sub-s (4): words omitted repealed, and words in square brackets substituted, by the Environment Act 1995, s 120, Sch 22, para 21(4), Sch 24.

### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## **8 Transfer and relinquishment of licences**

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

(2) *If by operation of law the right of the holder of a disposal licence to occupy the relevant land is*

*transferred to some other person, that person shall be deemed to be holder of the licence during the period of ten weeks beginning with the date of the transfer.*

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

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

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### **Amendment**

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-ss (1), (4): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 22(2), (3).

### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## **9 Supervision of licensed activities**

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

- (a) *for the purpose of ensuring that the activities to which the licence relates do not cause pollution of water or danger to public health or become seriously detrimental to the amenities of the locality affected by the activities; and*
- (b) *for the purpose of ensuring that the conditions specified in the licence are complied with.*

(2) *For the purpose of performing the duty which is imposed on [the Environment Agency or SEPA, as the case may be,] by the preceding subsection in connection with a licence, any officer of [that Agency] authorised in writing in that behalf by [that Agency] may if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the relevant land and on any plant or equipment to which the licence relates.*

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

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

- (a) *serve on the licence holder a notice requiring him to comply with the condition before a time*

specified in the notice; and

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

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### Amendment

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-ss (1)–(3): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 23(2)–(4).

Sub-s (4): words in square brackets substituted, and words omitted repealed, by the Environment Act 1995, s 120, Sch 22, para 23(5), Sch 24.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## **10 Appeals to Secretary of State from decisions with respect to licences**

(1) *Where—*

- (a) *an application for a disposal licence or a modification of a disposal licence is rejected; or*
- (b) *a disposal licence which specifies conditions is issued; or*
- (c) *the conditions specified in a disposal licence are modified; or*
- (d) *a disposal licence is revoked,*

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

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

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

- (a) *if the appeal in question is still pending at the end of the day on which the determination is made, the preceding subsection shall apply to the decision from the end of that day; and*
- (b) *the holder or former holder of the licence shall be entitled to recover compensation from [the appropriate Agency] in respect of any loss suffered by him in consequence of the statement;*

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

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### **Amendment**

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-ss (1), (3): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 24(2), (3).

### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## **11 Special provisions for land occupied by disposal authorities**

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ...

(8) ...

(9) ...

(10) ...

(11) ...

[(12) Any resolution passed in pursuance of this section by the Greater London Council or the Greater Manchester County Council which is in force immediately before 1st April 1986 in relation to land transferred by or under the Local Government Act 1985 to a London waste disposal authority, the Common Council of the City of London, the council of a London borough or the council of the metropolitan district of Wigan (“the transferee authority”) shall have effect from that date as if it were a disposal licence granted under section 5 of this Act by the London Waste Regulation Authority or, as the case may be, the Greater Manchester Waste Disposal Authority to the transferee authority to use the land in question subject to the conditions specified in the resolution.]

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### Amendment

Sub-ss (1)–(11): repealed with savings by the Environment Act 1995, s 120(1)–(3), Sch 22, para 25, Sch 23, Pt I, para 13, Sch 24.

Date in force: 1 April 1996: see SI 1996/186, arts 3, 4.

Sub-s (12): inserted by SI 1985/1884, art 5, Sch 2, para 7.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## *Collection and disposal of controlled waste*

### **12 Collection of waste**

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

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

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

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

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

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

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

(a) *the duty to arrange for the collection of the waste in question which is imposed on the*

collection authority by subsection (1)(a) of this section shall not arise until a person who controls the waste requests the authority to collect it; and

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

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

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

- (a) to make such arrangements for the emptying of privies serving one or more private dwellings in its area as the authority considers appropriate and to make no charge for emptying done in pursuance of the arrangements;
- (b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment if the authority so requires of a reasonable charge;

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

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

(6) An [English county disposal authority] [, a London waste disposal authority] and any collection authority may—

- (a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste in pursuance of this section;
- (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority in pursuance of the preceding paragraph.

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

- (a) sections 19(4) and 21 of that Schedule (which relate to the erection of street notices and the laying of service pipes) were omitted, and in section 22 of that Schedule the words “which they are authorised to lay” were omitted; and
- (b) for any reference to undertakers or limits of supply there were substituted respectively a reference to the authority in question and the area of the authority; and
- (c) for the reference to the special Act in section 25(4) of that Schedule there were substituted a reference to this subsection;

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

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

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

(10) < . . . >

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

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Sub-ss (1)–(4), (8), (9), (11): Appointment (in relation to England and Wales): 6 June 1988: see SI 1988/818, art 2, Schedule.

Sub-s (5): Appointment (for certain purposes): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt II.

Sub-s (5): Appointment (in relation to inner London Boroughs): 1 April 1977: see SI 1977/336, art 3, Schedule.

Sub-s (5): Appointment (in relation to England and Wales for remaining purposes): 6 June 1988: see SI 1988/818, art 2, Schedule.

Sub-ss (6), (7): Appointment (in relation to England and Wales for certain purposes): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Sub-ss (6), (7): Appointment (in relation to England and Wales for remaining purposes): 6 June 1988: see SI 1988/818, art 2, Schedule.

### Amendment

Repealed for certain purposes and prospectively repealed for remaining purposes, as from a day to be appointed, by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for purposes see SI 1992/266.

Sub-ss (2), (6), (8): references to “English county disposal authority” substituted by the Local Government Act 1985, s 9, Sch 6, para 3; other words in square brackets substituted or inserted by SI 1985/1884, art 5, Sch 2, para 8.

Sub-s (10): repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### Subordinate Legislation

Collection and Disposal of Waste Regulations 1988, SI 1988/819 (made under sub-s (3)).

### 13 Dustbins, etc

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

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

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

- (a) if the recipient of the notice agrees, by the authority on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the authority; or*
- (b) by the recipient of the notice if he does not enter into an agreement in pursuance of the preceding paragraph within a period specified in the notice or the notice does not propose such an agreement.*

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

- (a) the notice shall be of no effect pending the determination of the appeal; and*
- (b) the court shall either quash or modify the notice or dismiss the appeal; and*
- (c) no question as to whether [any requirement] specified in the notice is unreasonable shall be entertained in any proceedings for an offence under this section in respect of the notice.*

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

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

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

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

of this subsection, paragraphs (a) to (c) of subsection (3) of this section shall apply in relation to the notice as they apply in relation to such a notice as is mentioned in that subsection.

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

- (a) the size, construction and maintenance of receptacles for controlled waste;
- (b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
- (c) the placing of the receptacles for that purpose on highways;
- (d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them; and
- (e) the steps to be taken by occupiers of premises for the purposes of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises.

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

- (a) the relevant highway authority have given their consent to their being so placed; and
- (b) arrangements have been made as to the liability for any damage arising out of their being so placed.]

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

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Sub-ss (1), (2), (4): Appointment (in relation to England and Wales): 6 June 1988: see SI 1988/818, art 2, Schedule.

Sub-ss (3), (8): Appointment (in relation to England and Wales for certain purposes): 1 August 1978: see SI 1978/954, art 3(b), (d).

Sub-ss (3), (8): Appointment (in relation to England and Wales for remaining purposes): 6 June 1988: see SI 1988/818, art 2, Schedule.

Sub-ss (5), (6), (7): Appointment (in relation to England and Wales): 1 August 1978: see SI 1978/954, art 3(a), (c).

### Amendment

Repealed for certain purposes and prospectively repealed for remaining purposes, as from a day to be appointed, by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for purposes see SI 1992/266.

Sub-ss (1), (1A): substituted for sub-s (1) as originally enacted, by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2; maximum fine in sub-s (1A) increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-ss (3), (6): words in square brackets substituted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

Sub-s (4): first words in square brackets substituted by the Local Government Act 1985, s 9, Sch 6, para 3; second words in square brackets substituted by SI 1985/1884, art 5, Sch 2, para 9.

Sub-ss (5), (5A): substituted for sub-s (5) as originally enacted, by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2; maximum fine in sub-s (5A) increased and converted to a level

on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-ss (7), (7A): substituted for sub-s (7) as originally enacted, by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

#### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

#### **14 Disposal of waste in England and Wales**

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

(2) *[A collection authority] and the relevant disposal authority may agree that, subject to such conditions as to payment or otherwise as may be specified in the agreement, waste to which the agreement relates shall not be delivered to the disposal authority in pursuance of the preceding subsection but shall be dealt with under arrangements made by the collection authority for the purpose of enabling the waste to be used again or substances to be reclaimed from it.*

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

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

- (a) *to provide, within or outside its area, places at which to deposit waste before the authority transfers it to a place or plant or equipment provided in pursuance of the following paragraph; and*
- (b) *to provide, within or outside its area, places at which to dispose of the waste and plant or equipment for processing it or otherwise disposing of it.*

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

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

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

- (b) *no charge shall be made in pursuance of this subsection in respect of household waste; and*
- (c) *anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.*

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

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

- (a) *be entitled to receive from [a collection authority] such sums as are needed to defray the reasonable cost to the disposal authority of disposing of commercial and industrial waste delivered to the disposal authority by the collection authority in pursuance of this section; and*
- (b) *pay to [a collection authority] a reasonable contribution towards expenditure reasonably incurred by the collection authority in delivering waste to the disposal authority in pursuance of subsection (1) of this section where the place of delivery is unreasonably far from the collection authority's area;*

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

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

- (a) *to deliver the matter, in accordance with any directions of the [sewerage undertaker] of which the area includes that of the collection authority, at a place specified in the directions (which must be in or within a reasonable distance from the collection authority's area) to the [sewerage undertaker] or to another person so specified;*
- (b) *to give to the [sewerage undertaker] from time to time a notice stating the quantity of the matter which the collection authority expects to deliver to or as directed by the [sewerage undertaker] in pursuance of the preceding paragraph during a period specified in the notice.*

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

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

(12) *This section does not apply to Scotland.*

## **NOTES**

## **Initial Commencement**

### ***To be appointed***

To be appointed: see s 109(2).

## **Appointment**

Sub-ss (1)–(8): Appointment: 6 June 1988: see SI 1988/818, art 2, Schedule.

Sub-ss (9)–(11): Appointment (in relation to inner London Boroughs): 1 April 1977: see SI 1977/336, art 3, Schedule.

Sub-ss (9)–(11): Appointment (for remaining purposes): 6 June 1988: see SI 1988/818, art 2, Schedule.

## **Amendment**

Sub-ss (1), (2), (8): words in square brackets substituted or inserted by SI 1985/1884, art 5, Sch 2, para 10.

Sub-s (4): words in square brackets inserted by the Environmental Protection Act 1990, s 77(8).

Sub-ss (9)–(11): words in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 48.

Repealed for certain purposes and prospectively repealed for remaining purposes, as from a day to be appointed, by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for purposes see SI 1991/266.

## **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

15 . . .

. . .

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Amendment**

Repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt II.

## **16 Removal of waste deposited in breach of licensing provisions**

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

- (a) *to remove the waste from the land within a period specified in the notice, which shall not be less than twenty-one days beginning with the date of service of the notice; or*
- (b) *to take within such a period such steps as are so specified with a view to eliminating or reducing the consequences of the deposit of the waste,*

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

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

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

- (b) *service of the notice on the appellant was not authorised by the preceding subsection; or*
- (c) *there is a material defect in the notice;*

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

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

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

- (a) *he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 5 on the standard scale] and a further fine not exceeding £50 for each day on which the failure continues after conviction for the offence and before the authority which served the notice has begun to exercise its powers in pursuance of the following paragraph; and*
- (b) *the said authority may do what that person was required by the notice to do and may recover from him any expenses reasonably incurred by the authority in doing it.*

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

- (a) *in order to remove or prevent pollution of water or danger to public health it is necessary forthwith to remove the waste or to take other steps with a view to eliminating or reducing the consequences of the deposit of it or necessary forthwith to remove the waste and to take such other steps; or*
- (b) *there is no occupier of the land in question; or*
- (c) *the occupier of the land neither made nor knowingly permitted the deposit of the waste,*

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

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

- (a) *in a case falling within paragraph (a) of that subsection, from the occupier of the land unless he proves that he neither made nor caused nor knowingly permitted the deposit in question;*
- (b) *in any case, from any person who deposited or caused or knowingly permitted the deposit of any of the waste in question on the land,*

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

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

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

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

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### Amendment

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

Sub-s (1): words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 26(2).

Sub-s (4): first-mentioned maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-s (8): inserted by the Environment Act 1995, s 120, Sch 22, para 26(3).

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## **17 Special provisions with respect to certain dangerous or intractable waste**

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

- (a) *for the giving of directions by disposal authorities with respect to matters connected with the disposal of special waste;*
- (b) *for securing that special waste is not, while awaiting disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;*
- (c) *for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;*
- (d) *for the keeping of records by persons who produce or dispose of special waste or transfer it to another person for disposal, for the inspection of the records and for the furnishing by such persons to prescribed authorities of copies of or information derived from the records;*
- (e) *providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence (which shall not exceed, on summary conviction, a fine of [the prescribed sum] and, on conviction on indictment, imprisonment for a term of two years and a fine).*

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

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

- (b) *for the supervision by disposal authorities (whether by the application with modifications of provisions of section 9 of this Act or otherwise) of activities authorised by virtue of the regulations;*
  - (c) *as to the recovery of expenses or other charges for disposals by disposal authorities or the Secretary of State in pursuance of the regulations;*
  - (d) *as to appeals to the Secretary of State from decisions of disposal authorities in pursuance of the regulations.*
- (3) *Provision may also be made by regulations—*
- (a) *for the giving of a direction, in respect of any place in respect of which a disposal licence or a resolution in pursuance of section 11 of this Act is in force, requiring the holder of the licence or the authority which passed the resolution to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified;*
  - (b) *as to the consents to be obtained and the other steps to be taken before a direction may be given in pursuance of the regulations and as to appeals to the Secretary of State against a direction so given;*
  - (c) *providing that a failure to comply with such a direction shall be an offence punishable on summary conviction by a fine not exceeding [level 5 on the standard scale] or such less amount as is prescribed and that a person shall not be guilty of an offence under any prescribed enactment by reason only of anything necessarily done or omitted in order to comply with such a direction.*

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Sub-ss (1), (2), (3)(b), (c): Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Sub-s (3)(a): Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### Amendment

Sub-s (1): in para (e) words in square brackets substituted by virtue of the Magistrates' Courts Act 1980, s 32(2).

Sub-s (2): maximum fine in para (c) increased and converted to a reference to the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## Subordinate Legislation

Special Waste Regulations 1996, SI 1996/972.

Special Waste (Amendment) Regulations 1996, SI 1996/2019.

*Waste other than controlled waste*

### 18 Application of preceding provisions to other waste

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

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

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

(2) *A person who—*

- (a) *deposits on any land any waste other than controlled waste; or*
- (b) *causes or knowingly permits the deposit on any land of any waste other than controlled waste,*

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

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

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Sub-ss (1), (2): Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Sub-ss (1), (2): Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

Sub-s (3): Appointment (in relation to England and Wales): 6 June 1988: see SI 1988/818, art 2, Schedule.

### Amendment

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **19 Powers of disposal authorities as respects other waste**

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

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

#### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

#### **Amendment**

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

#### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### *Reclamation, etc, of waste*

### **20 Reclamation of waste**

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

- (a) *do such things as the authority considers appropriate for the purpose of—*
  - (i) *enabling waste belonging to the authority, or belonging to another person who requests the authority to deal with it in pursuance of this section, to be used again, or*
  - (ii) *enabling substances to be reclaimed from such waste;*
- (b) *buy or otherwise acquire waste with a view to its being used again or to the reclamation of substances from it; and*
- (c) *use, sell or otherwise dispose of waste belonging to the authority or anything produced from such waste.*

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

### **Amendment**

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## **21 Production of heat and electricity from waste, etc**

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

- (a) *use waste belonging to the authority for the purpose of producing from it heat or electricity or both;*
- (b) *establish and operate, within or outside its area, such generating stations and other installations as the authority thinks fit for the purpose aforesaid; and*
- (c) *where the authority operates an installation in which waste is usually used as the main fuel for the purpose of producing heat or electricity, then—*

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

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

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

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

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

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

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

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

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

**Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

**Amendment**

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

Sub-s (1): words in square brackets substituted or inserted by the Electricity Act 1989, s 112(1), Sch 16, para 18.

Sub-s (2): substituted for original sub-ss (2), (3), by the Electricity Act 1989, s 112(1), Sch 16, para 18.

Sub-s (6): words omitted repealed by the Electricity Act 1989, s 112(1), Sch 16, para 18, Sch 18.

**See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

**Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

*Street cleaning and litter***22 Street cleaning, etc**

(1), (2) . . .

(3) A local authority may, with the consent of any person who has an interest in or is the occupier of any relevant land, arrange for the cleaning of the land and may enter into an agreement with such a person for the payment by him of charges in respect of the cleaning; and in this subsection “relevant land” means any land in the open air to which members of the public have access, either as of right or otherwise, and which is not the site of a highway.

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

“highway” means highway maintainable at the public expense within the meaning of [the Highways Act 1980];

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

“special road” and “trunk road” have the same meanings as in [the Highways Act 1980].

(5) . . .

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 109(2).

**Appointment**

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

**Amendment**

Repealed in relation to Scotland by the Local Government and Planning (Scotland) Act 1982, s 66(2), Sch 4, Part I.

Sub-ss (1), (2): repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part IV.  
Sub-s (4): in definitions “highway” and “special road” and “trunk road” words in square brackets substituted by the Highways Act 1980, s 343(2), Sch 24; in definition “local authority” words in square brackets inserted by the Local Government (Wales) Act 1994, s 22(3), Sch 9, para 10(1).

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## 23 Prohibition of parking to facilitate street cleaning

(1) Where in the case of any part of a highway (hereafter in this section referred to as “the relevant area”) the highway authority for the relevant area or the local authority in whose area the relevant area is situated considers that, in order to facilitate the cleaning of the relevant area on a particular day (hereafter in this section referred to as “the relevant day”), it is appropriate to prohibit the parking of vehicles in the relevant area during certain hours of the relevant day, the authority may give notice in accordance with the following provisions of this section prohibiting such parking.

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

- (a) be served on the occupier of any premises adjoining the relevant area; and
- (b) be conspicuously displayed at places in the relevant area.

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

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

(3) . . .

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

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

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

other authority had given similar notice.

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

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

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

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

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

### Amendment

Sub-s (2A): substituted, together with sub-ss (2), (2B), for sub-s (2) as originally enacted, by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2, para 11; words in square brackets substituted by the Road Traffic Regulation Act 1984, s 146, Sch 13.

Sub-s (3): repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34, Part II.

Sub-s (4): words omitted repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34, Part II; words in square brackets substituted by the Road Traffic Regulation Act 1984, s 146, Sch 13.

Sub-s (5): substituted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2, para 11.

Sub-s (6A): inserted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2, para 11.

Sub-s (9): inserted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2, para 11; words in square brackets therein substituted by the Road Traffic Regulation Act 1984, s 146, Sch 13.

Repealed in relation to Scotland by the Local Government and Planning (Scotland) Act 1982, s 66(2), Sch 4, Part I.

Sub-ss (2), (2B): substituted, together with sub-s (2A), for sub-s (2) as originally enacted, by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2, para 11.

### See Further

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## 24 Litter

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

- (a) *to prepare and from time to time revise a statement of the steps which the council and each of the authorities and bodies agrees to take for that purpose; and*
- (b) *to take such steps as in its opinion will give adequate publicity in the county to the statement; and*
- (c) *to keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.*

(2) *The preceding subsection shall apply to Greater London and the Greater London Council as it applies to a county and the council of a county, and in that subsection “local authority” means a collection authority, a parish council, a parish meeting and a community council and “Park authority” means the National Parks Committee or the joint or special planning board for the Park in question.*

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

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

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

- (i) *to prepare and from time to time revise a statement of the steps which the regional or islands council and each of the bodies agrees to take for the purpose;*
- (ii) *to take such steps as in its opinion will give adequate publicity in its area to the statement; and*
- (iii) *to keep a copy of the statement available at its principal office for inspection by the public free of charge at all reasonable hours.*

(4) . . .

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Sub-s (4): Appointment: 1 April 1977: see SI 1977/476, art 3, Schedule, Pt I.

### **Amendment**

Sub-ss (1)–(3): prospectively repealed by the Litter Act 1983, s 12(3), Sch 2, as from a day to be appointed.

Sub-s (4): repealed by the Litter Act 1983, s 12(3), Sch 2.

**See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

**Miscellaneous**

Regional and district councils in Scotland were abolished and replaced by local government councils, as from 1 April 1996, by the Local Government etc (Scotland) Act 1994, ss 1, 2.

*Supplemental*

25 . . .

. . .

**NOTES**

**Amendment**

Repealed by the Coal Industry Act 1994, s 67(8), Sch 11, Pt II.

26 . . .

. . .

**NOTES**

**Amendment**

Repealed by the Water Act 1989, s 190(3), Sch 27, Pt I.

**27 Interference with refuse tips and dustbins, etc**

(1) *No person shall sort over or disturb—*

- (a) *anything deposited at a place provided by a disposal authority or a collection authority for the deposit of waste or in a receptacle for waste which is provided by such an authority or a parish or community council for public use; or*
- (b) *the contents of any receptacle for waste which, in accordance with [a notice under section 13(1) or (5)] of this Act, is placed on any highway or in any other place with a view to its being emptied,*

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

< . . . >

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

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 109(2).

**Appointment**

Sub-ss (1)(a), (2): Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Sub-ss (1)(a), (2): Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Sub-s (1)(b): Appointment (in relation to England and Wales): 6 June 1988: see SI 1988/818, art 2, Schedule.

### **Amendment**

Repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II; for transitional provisions and savings see SI 1994/1096, arts 2(2), (3), 3, as read with the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, SI 1991/472.

Sub-s (1): words in square brackets substituted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2; words omitted repealed by the Roads (Scotland) Act 1984, s 156(1), (3), Sch 9, para 74(1)(3)(c), Sch 11.

Sub-s (2): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

## **28 Supplementary provisions relating to pipes**

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

- (a) *except where the authority is a collection authority and the pipes are situated in its area, to send to the collection authority in whose area the pipes are situated a map < . . . > showing the location of the pipes; and*
- (b) *where the authority is a collection authority and the pipes are situated in its area, to prepare such a map;*

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

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

(2) *< . . . >*

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

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

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales for certain purposes): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to England and Wales for certain purposes): 6 June 1988: see SI 1988/818, art 2, Schedule.

#### **Amendment**

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

Sub-s (1): words in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 48; words omitted repealed by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

Sub-s (2): repealed by the Building Act 1984, s 133(2), Sch 7.

#### **See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

### **29 Modification of Parts I and II to avoid duplication of control**

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

#### **NOTES**

##### **Initial Commencement**

###### ***To be appointed***

To be appointed: see s 109(2).

##### **Appointment**

Appointment: 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt II.

##### **Amendment**

Prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part II, as from a day to be appointed.

Repealed in relation to Scotland by the Local Government and Planning (Scotland) Act 1982, s 66(2), Sch 4, Part I.

##### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **30 Interpretation etc of Part I**

(1) Subject to the following subsection [and to subsection (6) below], in this Part of this Act—

["area", in relation to the Greater Manchester Waste Disposal Authority, means—

(a) for the purposes of the waste disposal provisions of this Act, the metropolitan county of Greater Manchester excluding the metropolitan district of Wigan; and

(b) for the purposes of the waste regulation provisions of this Act, the whole county;]

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

"collection authority" means the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple and "English collection authority" means a collection authority [of which the

area is in the area of an English county disposal authority];

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

[“disposal authority” has the meaning given by subsections (2A) to (2D) of this section;]

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

[“English county disposal authority” means the council of a county in England, the Greater Manchester Waste Disposal Authority or the Merseyside Waste Disposal Authority;

“London waste disposal authority” means an authority established by Part II, III, IV or V of Schedule 1 to the Waste Regulation and Disposal (Authorities) Order 1985;]

“private dwelling” means—

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

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

“relevant land” means—

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

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

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

[“the appropriate Agency” means—

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

[(aa) in relation to Wales, the Natural Resources Body for Wales; and]

(b) in relation to Scotland, SEPA;]

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

[“waste disposal provisions” means—

(a) sections 1 and 2 (waste disposal arrangements and plans);

(b) section 12 (collection of waste);

(c) section 13(4) (provision of receptacles for industrial or commercial waste);

(d) section 14 (disposal of waste);

- (e) section 17(2)(a) and (c) (disposal of dangerous or intractable waste);
- (f) sections 19 to 21 (powers in relation to disposal of waste which is not controlled waste, reclamation of waste and production of heat and electricity from waste); and
- (g) section 27(1) (interference with refuse tips and dustbins etc);

“waste regulation provisions” means—

- (a) sections 3 to 11 (disposal licences);
- (b) section 16 (removal of waste deposited in breach of licensing provisions); and
- (c) section 17(1)(a) and (2)(b) to (d) (directions as to disposal of dangerous or intractable waste, supervision of certain activities, recovery of expenses and charges and appeals to the Secretary of State);]

...

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

"collection authority" means an islands or district council;

"disposal authority" means an islands or district council;

"private dwelling" means—

- (a) lands and heritages used wholly or mainly for the purposes of a private dwelling or private dwellings; and
- (b) a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960 which usually and for the time being is situated on a caravan site within the meaning of that Act;

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

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

[(2A) In Greater London the disposal authority is—

- (a) for the purposes of the waste disposal provisions of this Act—
  - (i) in the area of a London waste disposal authority, that authority;
  - (ii) in the City of London, the Common Council;
  - (iii) in any other London borough, the council of that borough; and
- (b) for the purposes of the waste regulation provisions of this Act, the London Waste Regulation Authority.

(2B) In the metropolitan county of Greater Manchester the disposal authority is—

- (a) for the purposes of the waste disposal provisions of this Act—
  - (i) in the metropolitan district of Wigan, the district council;

(ii) in all other areas in the county, the Greater Manchester Waste Disposal Authority; and

(b) for the purposes of the waste regulation provisions of this Act, the Greater Manchester Waste Disposal Authority.

(2C) In the metropolitan county of Merseyside the disposal authority is the Merseyside Waste Disposal Authority.

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

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

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

(b) industrial waste consists of waste from any factory within the meaning of the Factories Act 1961 and any premises occupied by a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or any undertaking, excluding waste from any mine or quarry; and

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

(i) household and industrial waste, and

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

(iii) waste of any other description prescribed for the purposes of this subparagraph.

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

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

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

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

(b) make such modifications of *the said Act of 1960 and any other Act [the Radioactive Substances Act 1993, the Environmental Permitting (England and Wales) Regulations 2010 and any other enactment]* as the Secretary of State considers appropriate in consequence of the passing of this Part of this Act or in connection with regulations made by virtue of the

preceding paragraph.

[(6) In the application of this Part of this Act to Wales—

“collection authority” means a county council or county borough council; and

“disposal authority” means a county council or county borough council.]

## NOTES

### Amendment

Sub-s (1): words “and to subsection (6) below” in square brackets inserted by the Local Government (Wales) Act 1994, s 22(3), Sch 9, para 10(2).

Sub-s (1): definition “area” substituted by the Local Government Act 1985, s 9, Sch 6, para 3.

Sub-s (1): in definition “collection authority” words “of which the area is in the area of an English county disposal authority” in square brackets inserted by SI 1985/1884, art 5, Sch 2, para 11.

Sub-s (1): definition “disposal authority” substituted by SI 1985/1884, art 5, Sch 2, para 11(a).

Sub-s (1): definitions “English county disposal authority” and “London waste disposal authority” substituted by SI 1985/1884, art 5, Sch 2, para 11(a).

Sub-s (1): definition “the appropriate Agency” inserted by the Environment Act 1995, s 120, Sch 22, para 27(a).

Sub-s (1): in definition “the appropriate Agency” in para (a) words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 114, 115(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in definition “the appropriate Agency” para (aa) inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 114, 115(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): definition “waste” substituted by the Environment Act 1995, s 120(1), Sch 22, para 27(b).

Date in force (in relation to Scotland): 1 January 2005: see SSI 2004/541, art 2(a).

Date in force (in relation to England and Wales): 15 May 2006: see SI 2006/934, art 2(a).

Sub-s (1): definitions “waste disposal provisions” and “waste regulation provisions” substituted by SI 1985/1884, art 5, Sch 2, para 11(a).

Sub-s (1): words omitted repealed by the Environment Act 1995, s 120(1), (3), Sch 22, para 27(c), Sch 24.

Date in force (in relation to Scotland): 1 January 2005: see SSI 2004/541, art 2.

Date in force (in relation to England and Wales): 15 May 2006: see SI 2006/934, art 2(a), (b)(i).

Sub-ss (2A)–(2D): inserted by SI 1985/1884, art 5, Sch 2, para 11.

Sub-s (5): words “the Radioactive Substances Act 1960” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2010/675, reg 107, Sch 26, Pt 1, para 3(a).

Date in force: 6 April 2010 (immediately after the coming into force of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009, SI 2009/3381): see SI 2010/675, reg 1(1)(b).

Sub-s (5): in para (b) words “the said Act of 1960 and any other Act” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2010/675, reg 107, Sch 26, Pt 1, para 3(b).

Date in force: 6 April 2010 (immediately after the coming into force of the Environmental Permitting (England and Wales) (Amendment) (No 2) Regulations 2009, SI 2009/3381): see SI 2010/675, reg 1(1)(b).

Sub-s (5): in para (b) words “the Radioactive Substances Act 1993,” repealed, in relation to England and Wales, by SI 2011/2043, reg 16, Sch 2, Pt 1, para 2.

Date in force: 1 October 2011: see SI 2011/2043, reg 1(b).

Sub-s (6): inserted by the Local Government (Wales) Act 1994, s 22(3), Sch 9, para 10(2).

**See Further**

See further, in relation to the vesting of land held by an abolished council in connection with waste disposal functions: the Local Government Reorganisation (Property etc) (No 2) Order 1986, SI 1986/413, art 2.

**Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

**Subordinate Legislation**

Collection and Disposal of Waste Regulations 1988, SI 1988/819 (made under sub-s (4)).

[Part IA  
Abandoned Mines]

**[30Y Introductory]**

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

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

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

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

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

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

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

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

(b) does not include—

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

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

(iii) any disclaimer by notice signed by the Queen’s and Lord Treasurer’s Remembrancer under section 1013 of the Companies Act 2006 (Crown disclaimer of property vesting as *bona vacantia*)]

and cognate expressions shall be construed accordingly.

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

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

(a) liquidator of a company;

- (b) receiver or manager of a bankrupt's estate, pursuant to section 287 of the Insolvency Act 1986;
- (c) trustee of a bankrupt's estate;
- (d) liquidator of an insolvent partnership;
- (e) trustee of an insolvent partnership;
- (f) trustee, or receiver or manager, of the insolvent estate of a deceased person;

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

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

(3) This Part extends only to Scotland.]

## NOTES

### Extent

This section applies to Scotland only.

### Amendment

Inserted by the Environment Act 1995, s 59.

Sub-s (1): in para (b)(i) word omitted repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (3)(a).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): para (b)(iii) and word "or" immediately preceding it inserted by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (3)(b).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

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

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

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

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

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

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

- (a) the abandonment happens in an emergency in order to avoid danger to life or health; and
- (b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.

- (5) Where the operator of a mine is—
- (a) the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the Bankruptcy (Scotland) Act 1985); or
  - (b) the official receiver acting in a compulsory capacity,

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

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

- (7) Where SEPA—
- (a) receives notice under this section or otherwise learns of an abandonment or proposed abandonment in the case of any mine, and
  - (b) considers that, in consequence of the abandonment or proposed abandonment taking effect, any land has or is likely to become contaminated land, within the meaning of Part IIA of the Environmental Protection Act 1990,

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

- (8) In this section—
- “the initial period” means the period of six months beginning with the day on which subsection (1) above comes into force;
- “local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994.”]

## NOTES

### Extent

This section applies to Scotland only.

### Amendment

Inserted by the Environment Act 1995, s 59.

## Part II Pollution of Water

### *[General Provisions]*

### **[30A Waters to which Part II applies]**

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

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

- (b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area;
- (c) inland waters, that is to say, the waters of any relevant loch or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;
- (d) ground waters, that is to say, any waters contained in underground strata, or in—
  - (i) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or
  - (ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(2) The Secretary of State—

- (a) shall deposit maps with [SEPA] showing what appear to him to be the fresh-water limits of every relevant river or watercourse . . .; and
- (b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any river or watercourse, deposit a map showing a revised limit for that river or watercourse;

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

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

(4) In this section—

“miles” means international nautical miles of 1,852 metres;

“loch or pond” includes a reservoir of any description;

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

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

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

- (a) that any area of the territorial sea adjacent to Scotland is to be treated as if it were an area of relevant territorial waters for the purposes of this Part;
- (b) that any loch or pond which does not discharge into a relevant river or watercourse or into a relevant loch or pond is to be treated for those purposes as a relevant loch or pond.

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

Parliament; and such an order may—

- (a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
- (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.]

## NOTES

### Extent

This section applies to Scotland only.

### Amendment

Substituted, together with ss 30B–30E, 31, 31A–31D, 32–38, 39–42, for ss 31–42 as originally enacted, in relation to Scotland, by the Water Act 1989, s 169, Sch 23, para 4.

Sub-s (2): in para (a) reference to “SEPA” in square brackets substituted by the Environment Act 1995, s 120(1), Sch 22, para 29(2).

Sub-s (2): in para (a) words omitted repealed by the Environment Act 1995, s 120(1), (3), Sch 22, para 29(3), Sch 24.

Sub-s (3): reference to “SEPA” in square brackets substituted by the Environment Act 1995, s 120(1), Sch 22, para 29(2).

## [30B . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(a).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

## [30C . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(b).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

## [30D . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(c).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

## [30E . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(d).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[. . .]

## NOTES

### Amendment

Repealed by virtue of the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(e), (f).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

### [30F . . .]

[. . .]

## NOTES

### Amendment

Inserted by the Environment Act 1995, s 106, Sch 16, para 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1; for savings see art 2, Schedule, Pt III, para 2 thereto.

### [30G . . .]

[. . .]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 106, Sch 16, para 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

### [30H . . .]

[. . .]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 106, Sch 16, para 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

### [30I . . .]

[. . .]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 106, Sch 16, para 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

### [30J . . .]

[. . .]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 106, Sch 16, para 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

31 . . .

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

[31A . . .]

[. . . . .]

## NOTES

### Amendment

Substituted, together with ss 30A–30E, 31, 31B–31D, 32–38, 39–42, for ss 31–42 as originally enacted, in relation to Scotland, by the Water Act 1989, s 169, Sch 23, para 4.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1; for savings see art 2, Schedule, Pt III, para 3 thereto.

[31B . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(e).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[31C . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(f).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[31D . . .]

[. . .]

## NOTES

### Amendment

Substituted, together with ss 30A–30E, 31, 31A–31C, 32–38, 39–42, for ss 31–42 as originally enacted, in relation to Scotland, by the Water Act 1989, s 169, Sch 23, para 4.

Repealed by the Environment Act 1995, ss 120(1), (3), Sch 22, para 29(7), Sch 24.

**32 . . .**

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**NOTES**

**Amendment**

Repealed by the Environment Act 1995, ss 106, 120(3), Sch 16, para 3, Sch 24.  
Substituted, together with ss 30A–30E, 31, 31A–31D, 33–38, 39–42, for ss 31–42 as originally enacted, in relation to Scotland, by the Water Act 1989, s 169, Sch 23, para 4.

**33 . . .**

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**NOTES**

**Amendment**

Repealed by SSI 2006/181, art 2, Schedule, Pt I.  
Date in force: 1 April 2006: see SSI 2006/181, art 1; for savings see art 2, Schedule, Pt III, para 4 thereto.

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**NOTES**

**Amendment**

Repealed by SSI 2006/181, art 2, Schedule, Pt I.  
Date in force: 1 April 2006: see SSI 2006/181, art 1.

**34 . . .**

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**NOTES**

**Amendment**

Repealed by SSI 2006/181, art 2, Schedule, Pt I.  
Date in force: 1 April 2006: see SSI 2006/181, art 1.

**35 . . .**

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**NOTES**

**Amendment**

Repealed by SSI 2006/181, art 2, Schedule, Pt I.  
Date in force: 1 April 2006: see SSI 2006/181, art 1.

**36 . . .**

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**NOTES**

**Amendment**

Repealed by SSI 2006/181, art 2, Schedule, Pt I.  
Date in force: 1 April 2006: see SSI 2006/181, art 1.

**37 . . .**

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

38 ...

...

## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

[38A ...]

[...]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 120(1), Sch 22, para 29(14).

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

39 ...

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

40 ...

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

[...]

## NOTES

### Amendment

Repealed by virtue of the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(g)–(i).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[41 ...]

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## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(g).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[42A . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(h).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[42B . . .]

[. . .]

## NOTES

### Amendment

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(i).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

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43 . . .

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## NOTES

### Amendment

Repealed in relation to England and Wales by the Water Consolidation (Consequential Provisions) Act 1991, s 3(1), Sch 3, Pt I and in relation to Scotland by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(j).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

44 . . .

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## NOTES

### Amendment

Repealed in relation to England and Wales by the Water Act 1989, s 190(3), Sch 27, Pt I and the Water Consolidation (Consequential Provisions) Act 1991, s 3(1), Sch 3, Pt I. and in relation to Scotland by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(k).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

45 . . .

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## NOTES

### Amendment

Repealed in relation to England and Wales by the Water Consolidation (Consequential Provisions) Act 1991, s 3(1), Sch 3, Pt I and in relation to Scotland by the Regulatory Reform (Scotland) Act

2014, s 57, SCh 3, Pt 4, para 16(1), (2)(k).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

*[Miscellaneous]*

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#### **NOTES**

##### **Amendment**

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

**[46A . . .]**

[. . .]

#### **NOTES**

##### **Amendment**

Inserted by the Environment Act 1995, s 120(1), Sch 22, para 29(22).

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

**[46B . . .]**

[. . .]

#### **NOTES**

##### **Amendment**

Inserted by the Environment Act 1995, s 120(1), Sch 22, para 29(22).

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

**[46C . . .]**

[. . .]

#### **NOTES**

##### **Amendment**

Inserted by the Environment Act 1995, s 120(1), Sch 22, para 29(22).

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

**[46D . . .]**

[. . .]

#### **NOTES**

##### **Amendment**

Inserted by the Environment Act 1995, s 120(1), Sch 22, para 29(22).

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

47 . . .

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1; for savings see art 2, Schedule, Pt III, para 5 thereto.

### See Further

Repealed in part, in so far as this section is saved by SSI 2006/181, art 2, Schedule, Pt III, para 5, by the Public Health etc (Scotland) Act 2008, s 126(1), Sch 3, Pt 1.

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1; for savings see art 2, Schedule, Pt III, para 5 thereto.

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## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

[49A ...]

[...]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 120(1), Sch 22, para 29(26).

Date in force: 1 January 2001: see SSI 2000/433, art 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

[49B ...]

[...]

## NOTES

### Amendment

Inserted, in relation to Scotland, by the Environment Act 1995, s 120(1), Sch 22, para 29(26).

Date in force: 1 January 2001: see SSI 2000/433, art 2.

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

50 ...

...

## NOTES

### Amendment

Repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

### [51 Codes of good agricultural practice]

[(1) The Secretary of State may by order made by statutory instrument approve any code of practice issued (whether by him or by another person) for the purpose of—

- (a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and
- (b) promoting what appear to him to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,

and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.

(2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, . . .

(3) The Secretary of State shall not make an order under this section unless he has first consulted [SEPA].]

## NOTES

### Extent

This section applies to Scotland only.

### Amendment

Substituted, together with ss 46, 47–49, 50, for ss 46–51 as originally enacted, in relation to Scotland, by the Water Act 1989, s 169, Sch 23, para 5.

Sub-s (2): words omitted repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (4).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (3): reference to “SEPA” in square brackets substituted by the Environment Act 1995, s 120(1), Sch 22, para 29(2).

### Subordinate Legislation

Water (Prevention of Pollution) (Code of Practice) (Scotland) Order 2005, SSI 2005/63 (made under sub-s (1)).

52 . . .

. . .

## NOTES

### Amendment

Repealed in relation to England and Wales by the Water Act 1989, s 190(3), Sch 27, Pt I and in relation to Scotland by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(m).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

53 . . .

. . .

## NOTES

### Amendment

Repealed by the Environment Act 1995, s 120(1), (3), Sch 22, para 29(1), (28), Sch 24.

54 . . .

. . .

## NOTES

### Amendment

Repealed by the Water Act 1989, s 190(3), Sch 27, Pt I.

*[Supplemental]*

55 . . .

### [55A Regulations under this Part]

[Regulations made under this Part of this Act may provide that any provision of this Part, except this section . . ., shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—

- (a) to give effect to any [EU] obligation or exercise any related right; or
- (b) to give any effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party,

and “related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.]

## NOTES

### Extent

This section applies to Scotland only.

### Amendment

Inserted, in relation to Scotland, by the Natural Heritage (Scotland) Act 1991, s 27(1), Sch 10, para 7(3).

Words omitted repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (5).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

In para (a) reference to “EU” in square brackets substituted by SI 2011/1043, art 6(1)(e).

Date in force: 22 April 2011: see SI 2011/1043, art 2; for transitional savings see art 3(3) thereof.

### [56 Interpretation etc of Part II]

[(1) Except where the context otherwise requires, in this Part of this Act—

“agriculture” and “agricultural” have the same meanings as in the Agriculture (Scotland) Act 1948;

[“controlled waters” has the meaning] given by section 30A(1) above;

[“drain” has the same meaning as in the Sewerage (Scotland) Act 1968;]

. . .

. . .

[. . .]

["sewage authority" shall be construed in accordance with section 62 of the Local Government etc (Scotland) Act 1994;]

...

["sewer" has the same meaning as in the Sewerage (Scotland) Act 1968;]

...

...

"underground strata" means strata subjacent to the surface of any land;

["water authority" shall be construed in accordance with section 62 of the Local Government etc (Scotland) Act 1994;]

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers, and passages through which water flows except mains and other pipes which belong to the water authority or are used by a water authority or any other person for the purposes only of providing a supply of water to any premises.

(2) In this Part of this Act—

- (a) any reference to the waters of any loch or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any loch, pond, river or, as the case may be, watercourse which is for the time being dry; and
- (b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

(3) ...

(4) ...

(5) ...

[(6) ...]

## NOTES

### Extent

This section applies to Scotland only.

### Amendment

Substituted, in relation to Scotland, by the Water Act 1989, Sch 23, para 6.

Sub-s (1): in definition "controlled waters" words "'controlled waters" has the meaning" in square brackets substituted by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 6(1), (6)(a)(i).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition "drain" inserted by the Environment Act 1995, s 106, Sch 16, para 8.

Sub-s (1): definition "effluent" (omitted) repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition "micro-organism" (omitted) repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “operations” inserted by the Environment Act 1995, s 120(1), Sch 22, para 29(29).

Sub-s (1): definition “operations” (omitted) repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “sewerage authority” substituted by Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 95(5)(a).

Sub-s (1): definition “sewage effluent” (omitted) repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “sewer” inserted by the Environment Act 1995, s 106, Sch 16, para 8.

Sub-s (1): definition “substance” (omitted) repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “trade effluent” (omitted) repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “water authority” substituted by Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 95(5)(b).

Sub-s (3): repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(b).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (4): repealed by the Environment Act 1995, s 120(1), (3), Sch 22, para 29(28), Sch 24.

Sub-ss (5), (6): repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (6)(b).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

## Part III Noise

### *Periodical inspections by local authorities*

#### **NOTES**

##### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(n).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### **57 Periodical inspections by local authorities**

...

#### **NOTES**

##### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(n).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Para (a) repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part III, and by the Environment Act 1995, s 120, Sch 24.

58 . . .

. . .

## NOTES

### Amendment

Repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt III.

59 . . .

. . .

## NOTES

### Amendment

Repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt III.

### *Construction sites*

## 60 Control of noise on construction sites

- (1) This section applies to works of the following description, that is to say—
- (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
  - (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
  - (c) demolition or dredging work; and
  - (d) (whether or not also comprised in paragraph (a), (b) or (c) above) any work of engineering construction.
- (2) Where it appears to a local authority that works to which this section applies are being, or are going to be, carried out on any premises, the local authority may serve a notice imposing requirements as to the way in which the works are to be carried out and may if it thinks fit publish notice of the requirements in such way as appears to the local authority to be appropriate.
- (3) The notice may in particular—
- (a) specify the plant or machinery which is or is not to be used;
  - (b) specify the hours during which the works may be carried out;
  - (c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and
  - (d) provide for any change of circumstances.
- (4) In acting under this section the local authority shall have regard—
- (a) to the relevant provisions of any code of practice issued under this Part of this Act;
  - (b) to the need for ensuring that the best practicable means are employed to minimise noise;
  - (c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which would be substantially as effective in minimising noise and more acceptable

- to them;
- (d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.

(5) A notice under this section shall be served on the person who appears to the local authority to be carrying out, or going to carry out, the works, and on such other persons appearing to the local authority to be responsible for, or to have control over, the carrying out of the works as the local authority thinks fit.

(6) A notice under this section may specify the time within which the notice is to be complied with, and may require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice, or as may be specified in the notice.

(7) A person served with a notice under this section may appeal against the notice to a magistrates' court within twenty-one days from the service of the notice.

(8) If a person on whom a notice is served under this section without reasonable excuse contravenes any requirement of the notice he shall be guilty of an offence against this Part of this Act.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### See Further

See further, in relation to the application of this section, with modifications, for the purposes of the Crossrail Act 2008: the Crossrail Act 2008, s 20.

See further, in relation to the application of this section, with modifications, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(1).

## 61 Prior consent for work on construction sites

(1) A person who intends to carry out works to which the preceding section applies may apply to the local authority for a consent under this section.

(2) Where approval under building regulations . . . , or in Scotland a [building warrant] under [section 9] of the Building (Scotland) Act [2003 (asp 8)], is required for the carrying out of the works, the application under this section must be made at the same time as, or later than, the request for the approval under building regulations or, as the case may be, the application for a [building warrant] under the said Act of [2003].

(3) An application under this section shall contain particulars of—

- (a) the works, and the method by which they are to be carried out; and
- (b) the steps proposed to be taken to minimise noise resulting from the works.

(4) If the local authority considers that the application contains sufficient information for the purpose and that, if the works are carried out in accordance with the application, it would not serve a notice under the preceding section in respect of those works, the local authority shall give its consent to the application.

(5) In acting under this section a local authority shall have regard to the considerations set out in subsection (4) of the preceding section and shall have power to—

- (a) attach any conditions to a consent; and
- (b) limit or qualify a consent to allow for any change in circumstances; and
- (c) limit the duration of a consent;

and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to a consent under this section shall be guilty of an offence against this Part of this Act.

(6) The local authority shall inform the applicant of its decision on the application within twenty-eight days from receipt of the application; and if the local authority gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates, in such way as appears to the local authority to be appropriate.

(7) If—

- (a) the local authority does not give a consent within the said period of twenty-eight days; or
- (b) the local authority gives its consent within the said period of twenty-eight days but attaches any condition to the consent or limits or qualifies the consent in any way,

the applicant may appeal to a magistrates' court within twenty-one days from the end of that period.

(8) In any proceedings for an offence under section 60(8) of this Act it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this section.

(9) A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under . . . [ . . . section 82 of the Environmental Protection Act 1990 . . . ].

(10) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to comply with this subsection he shall be guilty of an offence against this Part of this Act.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### Amendment

Sub-s (2): words omitted repealed by the Building Act 1984, s 133(2), Sch 7.

Sub-s (2): words "building warrant" in square brackets in both places they occur substituted by the Building (Scotland) Act 2003, s 58, Sch 6, para 10(a).

Date in force: 1 May 2005: see SSI 2004/404, art 2(1).

Sub-s (2): words "section 9" in square brackets substituted by the Building (Scotland) Act 2003, s 58, Sch 6, para 10(b).

Date in force: 1 May 2005: see SSI 2004/404, art 2(1).

Sub-s (2): reference to “2003 (asp 8)” and “2003” in square brackets substituted by the Building (Scotland) Act 2003, s 58, Sch 6, para 10(c).

Date in force: 1 May 2005: see SSI 2004/404, art 2(1).

Sub-s (9): words omitted repealed by the Environment Act 1995, s 120, Sch 24; words in square brackets inserted by the Environmental Protection Act 1990, s 162, Sch 15, para 15(1), (3).

### **See Further**

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Docklands Light Railway (Capacity Enhancement\_ Order 2005, SI 2005/3105: the Docklands Light Railway (Capacity Enhancement) Order 2005, SI 2005/3105, art 48(2)(a).

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Docklands Light Railway (Stratford International Extension) Order 2006, SI 2006/2905: the Docklands Light Railway (Stratford International Extension) Order 2006, SI 2006/2905, art 46(2)(a).

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Network Rail (Thameslink 2000) Order 2006, SI 2006/3117: the Network Rail (Thameslink 2000) Order 2006, SI 2006/3117, art 36(2)(a).

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007, SI 2007/2297: the Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007, SI 2007/2297, art 41(2)(a).

See further, in relation to the application of this section, with modifications, for the purposes of the Crossrail Act 2008: the Crossrail Act 2008, s 20.

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Felixstowe Branch Line and Ipswich Yard Improvement Order 2008: the Felixstowe Branch Line and Ipswich Yard Improvement Order 2008, SI 2008/2512, art 40(2)(a).

See further, in relation to the disapplication of para (9) above, for the purposes of the Network Rail (Ipswich Chord) Order 2012: the Network Rail (Ipswich Chord) Order 2012, SI 2012/2284, art 29(2).

See further, in relation to the disapplication of sub-s (9) above for the purposes of the London Gateway Logistics and Commercial Centre Order 2007, SI 2007/2657: the London Gateway Logistics and Commercial Centre Order 2007, SI 2007/2657 art 26(2).

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Crossrail Act 2008: the Crossrail Act 2008, s 21(3)(a).

See further, in relation to the disapplication of sub-s (9) above, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(2).

See further, in relation to the disapplication of sub-s (9) above, for the purposes of the Network Rail (North Doncaster Chord) Order 2012: the Network Rail (North Doncaster Chord) Order 2012, SI 2012/2635, art 38(2).

See further, in relation to the disapplication of sub-s (9) above, for the purposes of the Crossrail (Kensal Green) Order 2013: the Crossrail (Kensal Green) Order 2013, SI 2013/198, art 15(2).

See further, in relation to the disapplication of sub-s (9) above for the purposes of the Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013: the Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013, SI 2013/2587, art 46(2)(a).

Subs (9): see further the Network Rail (Huyton) Order 2014, SI 2014/2027, art 28(2)(a).

### *Noise in streets*

#### **62 Noise in streets**

- (1) Subject to the provisions of this section, a loud-speaker in a street shall not be operated—
- (a) between the hours of nine in the evening and eight in the following morning, for any purpose;
  - (b) at any other time, for the purpose of advertising any entertainment, trade or business;

and any person who operates or permits the operation of a loudspeaker in contravention of this

subsection shall be guilty of an offence against this Part of this Act.

[In this section] “street” means a highway and any other road, footway, square or court which is for the time being open to the public.

[(1A) Subject to subsection (1B) of this section, the Secretary of State may by order amend the times specified in subsection (1)(a) of this section.

(1B) An order under subsection (1A) of this section shall not amend the times so as to permit the operation of a loudspeaker in a street at any time between the hours of nine in the evening and eight in the following morning.]

(2) [Subsection (1) of this section] shall not apply to the operation of a loudspeaker—

- (a) for police, [fire and rescue authority] or ambulance purposes, by [the [Environment Agency], [the Natural Resources Body for Wales,] a water undertaker or a sewerage undertaker] in the exercise of any of its functions, or by a local authority within its area;
- (b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;
- (c) if the loudspeaker forms part of a public telephone system;
- (d) if the loudspeaker—
  - (i) is in or fixed to a vehicle, and
  - (ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or, where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and
  - (iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;
- (e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
- (f) by a travelling showman on land which is being used for the purposes of a pleasure fair;
- (g) in case of emergency.

(3) Subsection (1)(b) of this section shall not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day if the loudspeaker—

- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
- (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
- (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

[(3A) Subsection (1) of this section shall not apply to the operation of a loudspeaker in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993.]

(4) An offence under this section in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-s (1): words in square brackets substituted by the Noise and Statutory Nuisance Act 1993, s 7(2).

Sub-ss (1A), (1B), (3A): inserted by the Noise and Statutory Nuisance Act 1993, s 7(3), (5).

Sub-s (2): words "Subsection (1) of this section" in square brackets substituted by the Noise and Statutory Nuisance Act 1993, s 7(4).

Sub-s (2): in para (a) words "fire and rescue authority" in square brackets substituted in relation to England and Wales by the Fire and Rescue Services Act 2004, s 53(1), Sch 1, para 45; corresponding amendments have been made in relation to Scotland by the Fire (Scotland) Act 2005, s 89(1), Sch 3, para 6.

Date in force (in relation to England): 1 October 2004: see SI 2004/2304, art 2(2).

Date in force (in relation to Wales): 10 November 2004: see SI 2004/2917, art 2.

Date in force (in relation to Scotland): 2 August 2005: see SSI 2005/392, art 2(j), (k).

Sub-s (2): para (a) further amended, in relation to Scotland, by the Police and Fire Reform (Scotland) Act 2012, s 128(1), Sch 7, Pt 2, para 50.

Date in force: 1 April 2013: see SSI 2013/51, art 2; for supplementary, transitional, transitory and saving provision see SSI 2013/121.

Sub-s (2): in para (a) words from "the" to "a sewerage undertaker" in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 48; a corresponding amendment has been made by the Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 95(1), (6).

Sub-s (2): in para (a) words "Environment Agency" in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 28.

Sub-s (2): in para (a) words "the Natural Resources Body for Wales," in square brackets inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 114, 116.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

### Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### *Noise abatement zones*

## NOTES

### Amendment

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(o).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### **63 Designation of zones**

- (1) *A local authority may by order . . . designate all or any part of its area a noise abatement zone.*
- (2) *An order under this section shall specify the classes of premises to which it applies (that is to say, the classes of premises subject to control under the following provisions of this Part of this Act).*
- (3) *An order made . . . under this section may be revoked or varied by a subsequent order so made . . .*
- (4) *The provisions of Schedule 1 to this Act shall apply to the . . . coming into operation of an order under this section.*
- (5) *In this Part of this Act a “noise abatement order” means an order made under this section.*

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

#### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

#### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(o).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-ss (1), (3), (4): words omitted repealed by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

#### **See Further**

See further, in relation to the disapplication of this section, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(2).

### **64 Register of noise levels**

- (1) *Every local authority which has designated its area or any part of its area a noise abatement zone shall measure the level of noise emanating from premises within the zone which are of any class to which the relevant noise abatement order relates.*
- (2) *The local authority shall record all measurements taken in pursuance of the preceding subsection in a register (in this Part of this Act referred to as a “noise level register”) to be kept by the local authority for the purpose in accordance with regulations.*
- (3) *The local authority on recording any measurement in the noise level register shall serve a copy of that record on the owner and occupier of the premises in respect of which the measurement was taken; and any person on whom a copy of such a record is served may, within twenty-eight days of the date of service, appeal to the Secretary of State against the record.*
- (4) *On an appeal to the Secretary of State in pursuance of the preceding subsection the Secretary of State may give to the local authority in question such directions as he thinks fit as to the record of the measurement of noise which is the subject of the appeal, and it shall be the duty of the authority to*

comply with the directions.

(5) *Except as provided by the preceding provisions of this section the validity or accuracy of any entry in a noise level register shall not be questioned in any proceedings under this Part of this Act.*

(6) *The premises as to which a local authority is to make measurements under this section shall include those which come within a class to which the relevant noise abatement order relates after the making of the order; and it shall be for the local authority to determine, both for those premises and all other premises of any class to which the relevant noise abatement order relates, where the measurements under this section are to be made.*

(7) *A noise level register shall be open to public inspection at the principal office of the local authority free of charge at all reasonable hours, and the local authority shall afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.*

(8) *Provision may be made by regulations—*

(a) *for determining, or for authorising the Secretary of State to determine, the methods by which noise levels are to be measured for the purposes of any provision of this section and the three following sections; and*

(b) *for enabling noise levels calculated in accordance with the regulations, or in accordance with the directions of the Secretary of State, to be treated for those purposes as measured by a method determined in pursuance of the preceding paragraph.*

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(o).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### **See Further**

See further, in relation to the disapplication of this section, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(2).

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **Subordinate Legislation**

Control of Noise (Measurement and Registers) Regulations 1976, SI 1976/37 (made under sub-ss (2), (8)).

### **65 Noise exceeding registered level**

- (1) *The level of noise recorded in the noise level register in respect of any premises shall not be exceeded except with the consent in writing of the local authority.*
- (2) *The local authority's consent may be made subject to such conditions, whether as to the amount by which the level of noise may be increased, or as to the period for which, or the periods during which, the level of noise may be increased, as may be specified in the consent; and the authority shall record particulars of the consent in the noise level register.*
- (3) *If within the period of two months beginning with the date on which a local authority receives an application for its consent under this section, or within such longer period as the authority and the applicant agree in writing, the authority has not notified the applicant of its decision on the application, the authority shall be deemed to have refused consent in pursuance of the application.*
- (4) *An applicant for consent under this section may appeal to the Secretary of State against the local authority's decision on the application within the period of three months beginning with the date on which the authority notifies him of the decision or, in a case falling within the preceding subsection, beginning with the expiration of the period or longer period there mentioned; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.*
- (5) *If noise emitted from any premises constitutes a contravention of subsection (1) of this section or of a condition attached to a consent under this section, the person responsible shall be guilty of an offence against this Part of this Act.*
- (6) *The magistrates' court convicting a person of an offence under the preceding subsection may, if satisfied that the offence is likely to continue or recur, make an order requiring the execution of any works necessary to prevent it continuing or recurring; and if that person without reasonable excuse contravenes any requirement of the order he shall be guilty of an offence against this Part of this Act.*
- (7) *The magistrates' court may, after giving the local authority in whose area the premises are situated an opportunity of being heard, direct the local authority to do anything which the court has power under the preceding subsection to require the person convicted to do, either instead of, or in addition to, imposing any requirement on that person.*
- (8) *A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted under . . . [ . . . section 82 of the Environmental Protection Act 1990 . . . ].*

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(o).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (8): words omitted repealed by the Environment Act 1995, s 120, Sch 24; words in square brackets inserted by the Environmental Protection Act 1990, s 162, Sch 15, para 15(4).

## See Further

See further, in relation to the disapplication of sub-s (8) above for the purposes of the Docklands Light Railway (Capacity Enhancement) Order 2005, SI 2005/3105: the Docklands Light Railway (Capacity Enhancement) Order 2005, SI 2005/3105, art 48(2)(b).

See further, in relation to the disapplication of sub-s (8) above for the purposes of the Docklands Light Railway (Stratford International Extension) Order 2006, SI 2006/2905: the Docklands Light Railway (Stratford International Extension) Order 2006, SI 2006/2905, art 46(2)(b).

See further, in relation to the disapplication of sub-s (8) above for the purposes of the Network Rail (Thameslink 2000) Order 2006, SI 2006/3117: the Network Rail (Thameslink 2000) Order 2006, SI 2006/3117, art 36(2)(b).

See further, in relation to the disapplication of sub-s (8) above for the purposes of the Felixstowe Branch Line and Ipswich Yard Improvement Order 2008: the Felixstowe Branch Line and Ipswich Yard Improvement Order 2008, SI 2008/2512, art 40(2)(b).

See further, in relation to the disapplication of this section, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(2).

See further, in relation to the disapplication of para (8) above, for the purposes of the Network Rail (Ipswich Chord) Order 2012: the Network Rail (Ipswich Chord) Order 2012, SI 2012/2284, art 29(2).

See further, in relation to the disapplication of sub-s (8) above for the purposes of the London Gateway Logistics and Commercial Centre Order 2007, SI 2007/2657: the London Gateway Logistics and Commercial Centre Order 2007, SI 2007/2657 art 26(2).

See further, in relation to the disapplication of sub-s (8) above for the purposes of the Crossrail Act 2008: the Crossrail Act 2008, s 21(3)(b).

See further, in relation to the disapplication of sub-s (8) above, for the purposes of the Network Rail (North Doncaster Chord) Order 2012: the Network Rail (North Doncaster Chord) Order 2012, SI 2012/2635, art 38(2).

See further, in relation to the disapplication of sub-s (8) above, for the purposes of the Crossrail (Kensal Green) Order 2013: the Crossrail (Kensal Green) Order 2013, SI 2013/198, art 15(2).

See further, in relation to the disapplication of sub-s (8) above for the purposes of the Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013: the Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013, SI 2013/2587, art 46(2)(b).

Sub-s (8): see further the Network Rail (Huyton) Order 2014, SI 2014/2027, art 28(2)(b).

## Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 66 Reduction of noise levels

(1) *If it appears to the local authority—*

- (a) *that the level of noise emanating from any premises to which a noise abatement order applies is not acceptable having regard to the purposes for which the order was made; and*
- (b) *that a reduction in that level is practicable at reasonable cost and would afford a public benefit,*

*the local authority may serve a notice on the person responsible.*

(2) *The notice shall require that person—*

- (a) *to reduce the level of noise emanating from the premises to such level as may be specified in the notice;*
- (b) *to prevent any subsequent increase in the level of noise emanating from those premises*

*without the consent of the local authority; and*

(c) *to take such steps as may be specified in the notice to achieve those purposes.*

(3) *A notice under this section (in this Part of this Act referred to as a “noise reduction notice”) shall specify a time, not being less than six months from the date of service of the notice, within which the noise level is to be reduced to the specified level and, where the notice specifies any steps necessary to achieve that purpose, within which those steps shall be taken.*

(4) *A noise reduction notice may specify particular times, or particular days, during which the noise level is to be reduced, and may require the noise level to be reduced to different levels for different times or days.*

(5) *A notice under this section shall take effect whether or not a consent under the preceding section authorises a level of noise higher than that specified in the notice.*

(6) *The local authority shall record particulars of a noise reduction notice in the noise level register.*

(7) *A person who is served with a noise reduction notice may, within three months of the date of service, appeal to a magistrates’ court against the notice.*

(8) *A person who without reasonable excuse contravenes a noise reduction notice shall be guilty of an offence against this Part of this Act.*

(9) *In proceedings for an offence under the preceding subsection in respect of noise caused in the course of a trade or business, it shall be a defence to prove that the best practicable means had been used for preventing, or for counteracting the effect of, the noise.*

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(o).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### **See Further**

See further, in relation to the disapplication of this section, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(2).

### **67 New buildings, etc**

(1) *Where it appears to the local authority—*

(a) *that a building is going to be constructed and that a noise abatement order will apply to it when it is erected; or*

(b) *that any premises will, as the result of any works, become premises to which a noise*

*abatement order applies,*

*the local authority may, on the application of the owner or occupier of the premises or a person who satisfies the authority that he is negotiating to acquire an interest in the premises or on its own initiative, determine the level of noise which will be acceptable as that emanating from the premises.*

(2) *The local authority shall record in the noise level register the level of noise determined under this section for any premises.*

(3) *The local authority shall give notice of its intention to the applicant or, in the case of a decision made on its own initiative, to the owner or the occupier of the premises, and the recipient of the notice may appeal to the Secretary of State against that decision within three months of the date on which the local authority notifies him of that decision; and it shall be the duty of the local authority to act in accordance with the decision of the Secretary of State on the appeal.*

(4) *If within the period of two months beginning with the date when the local authority receives an application in pursuance of subsection (1) of this section, the authority has not given notice to the applicant of its decision on the application, the authority shall be deemed to have given him notice on the expiration of that period that it has decided not to make a determination in pursuance of the application; and the applicant may accordingly appeal against the decision to the Secretary of State in pursuance of the preceding subsection.*

(5) *Where at any time after the coming into force of a noise abatement order any premises become premises to which the order applies as a result of the construction of a building or as a result of any works carried out on the premises but no level of noise has been determined under this section as respects the premises, section 66 of this Act shall apply as if—*

- (a) *paragraph (b) of subsection (1) were omitted; and*
- (b) *three months were substituted for six months in subsection (3); and*
- (c) *subsection (9) were omitted.*

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 109(2).

### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(o).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### **See Further**

See further, in relation to the disapplication of this section, for the purposes of the Forth Crossing Act 2011: the Forth Crossing Act 2011, s 70(2).

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

*Noise from plant or machinery*

**68 Noise from plant or machinery**

- (1) Provision may be made by regulations—
- (a) for requiring the use on or in connection with any plant or machinery of devices or arrangements for reducing the noise caused by the plant or machinery;
  - (b) for limiting the level of noise which may be caused by any plant or machinery when used for works to which section 60 of this Act applies or which may be caused outside a factory within the meaning of the Factories Act 1961 by the use of plant or machinery in the factory;

and regulations under this section may apply standards, specifications, descriptions or tests laid down in documents not forming part of the regulations.

(2) It shall be the duty of the Secretary of State, before he makes regulations under this section, to consult persons appearing to him to represent producers and users of plant and machinery with a view to ensuring that the regulations do not contain requirements which in his opinion would be impracticable or involve unreasonable expense.

(3) Any person who contravenes or causes or permits another person to contravene regulations under this section shall be guilty of an offence against this Part of this Act; but in any proceedings for a contravention of regulations made in pursuance of paragraph (a) of subsection (1) of this section it shall be a defence to prove that means were used for the purpose of reducing the noise in question which were not less effective for that purpose than the means required by the regulations.

(4) Without prejudice to the generality of section 104(1)(a) of this Act, different regulations may be made under this section for different localities, and it shall be the duty of each local authority to enforce the provisions of regulations under this section within its area; but nothing in this section shall be taken to authorise a local authority in Scotland to institute proceedings for any offence.

(5) Nothing in this section or in regulations under this section shall be construed as derogating from any other provision of this Part of this Act.

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 109(2).

**Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

**Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

*Supplemental*

**69 Execution of works by local authority**

- (1) *This section applies—*
- (a) . . .

- (b) to a noise reduction notice; and
- (c) to an order of a magistrates' court under . . . section 65(6) of this Act,

being a notice or order which requires any person to execute any works.

(2) If that person fails to execute all or any of the works in accordance with the notice or order, the local authority may execute those works.

(3) Where a local authority execute works in pursuance of—

- (a) . . . section 65(7) of this Act; or
- (b) this section,

the local authority may recover from the person in default the expenditure incurred by the local authority in executing the works, except such of the expenditure as that person shows was unnecessary in the circumstances.

In this and the following subsection “the person in default” means—

- (i) . . . ,
- (ii) in a case under section 65(7), the person convicted of an offence under subsection (5) of that section, and
- (iii) in any other case, the person to whom the notice or order applies.

(4) In proceedings to recover any amount due to a local authority under the preceding subsection in respect of works executed by the local authority in pursuance of this section, it shall not be open to the person in default to raise any question which he could have raised on an appeal against the notice or order.

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland for certain purposes): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Appointment (in relation to Scotland for remaining purposes): 1 August 1982: see SI 1982/624, art 2, Schedule.

### Amendment

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(p).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-ss (1), (3): words omitted repealed by the Environmental Protection Act 1990, s 162, Sch 16, Part III, and by the Environment Act 1995, s 120, Sch 24.

## 70 Appeals to Secretary of State and magistrates' court

(1) Where any provision in this Part of this Act provides for an appeal to a magistrates' court, the procedure shall be by way of complaint for an order and the Magistrates' Courts Act 1952 shall apply to the proceedings.

(2) The Secretary of State may make regulations as to appeals under this Part of this Act to the Secretary of State or, subject to the preceding subsection, to magistrates' courts; and the regulations may in particular—

- (a) include provisions comparable to those in section 290 of the Public Health Act 1936 (appeals against notices requiring the execution of works);
- (b) prescribe the cases in which a notice under this Part of this Act is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;
- (c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;
- (d) prescribe the cases in which the appellant may claim that a notice should have been served on some other person and prescribe the procedure to be followed in those cases.

(3) Regulations under this section may prescribe the procedure and practice as respect appeals to the Secretary of State under this Part of this Act, and in particular may make provision as respects—

- (a) the particulars to be included in the notice of appeal;
- (b) the persons on whom notice of appeal is to be served and the particulars, if any, to accompany the notice; and
- (c) the abandonment of an appeal.

(4) In entertaining any appeal under this Part of this Act the Secretary of State, or as the case may be the magistrates' court, shall have regard to any duty imposed by law on the appellant which concerns the activities in the course of which the noise is emitted.

(5) In the application of this section to Scotland, subsection (1) and the reference to that subsection in subsection (2) shall not have effect.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

Control of Noise (Appeals) Regulations 1975, SI 1975/2116 (made under sub-ss (2), (3)).

## 71 Codes of practice for minimising noise

(1) For the purpose of giving guidance on appropriate methods (including the use of specified types

of plant or machinery) for minimising noise, the Secretary of State may—

- (a) prepare and approve and issue such codes of practice as in his opinion are suitable for the purpose; and
- (b) approve such codes of practice issued or proposed to be issued otherwise than by the Secretary of State as in the opinion of the Secretary of State are suitable for the purpose.

(2) The Secretary of State shall under paragraph (a) or paragraph (b) of the preceding subsection approve a code of practice for the carrying out of works to which section 60 of this Act applies.

(3) The powers conferred by this section on the Secretary of State shall be exercisable by order, and shall include power to vary or revoke a previous order under this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Sub-ss (1), (3): Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art3, Schedule.

Sub-s (2): Appointment (in relation to Scotland): 1 August 1982: see SI 1982/624, art 2, Schedule.

### Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

#### **UK**

Control of Noise (Code of Practice on Noise from Ice-Cream Van Chimes Etc) Order 1981, SI 1981/1828.

Control of Noise (Code of Practice on Noise from Audible Intruder Alarms) Order 1981, SI 1981/1829.

Control of Noise (Code of Practice on Noise from Model Aircraft) Order 1981, SI 1981/1830.

Control of Noise (Codes of Practice for Construction and Open Sites) (England) Order 2002, SI 2002/461.

Control of Noise (Code of Practice on Noise from Ice-Cream Van Chimes Etc) (England) Order 2013, SI 2013/2036.

Control of Noise (Code of Practice on Noise from Audible Intruder Alarms) (Revocation) (England) Order 2014, SI 2014/2123 (made under sub-s (3)).

Control of Noise (Code of Practice for Construction and Open Sites) (England) Order 2015, SI 2015/227 (made under sub-ss (1)(b), (2), (3)).

#### **Scotland**

Control of Noise (Codes of Practice for Construction and Open Sites) (Scotland) Order 2002, SSI 2002/104.

## 72 "Best practicable means"

(1) This section shall apply for the construction of references in this Part of this Act to best practicable means.

(2) In that expression "practicable" means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.

(3) The means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and acoustic structures.

(4) The test of best practicable means is to apply only so far as compatible with any duty imposed by law, and in particular is to apply to statutory undertakers only so far as compatible with the duties imposed on them in their capacity of statutory undertakers.

(5) The said test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances.

(6) Subject to the preceding provisions of this section, regard shall be had, in construing references to “best practicable means”, to any relevant provision of a code of practice approved under the preceding section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

## 73 Interpretation and other supplementary provisions

(1) Except where the context otherwise requires, in this Part of this Act—

“contravention” includes a failure to comply with the provision in question, and “contravene” shall be construed accordingly;

[. . .]

“local authority” means—

(a) in England . . . , the council of a district or a London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;

[(aa) in Wales, the council of a county or a county borough;] and

(b) in Scotland, [a council constituted under section 2 of the Local Government etc (Scotland) Act 1994];

“noise” includes vibration;

“noise abatement order” and “noise abatement zone” have the meanings given by section 63 of this Act;

“noise level register” has the meaning given by section 64(2) of this Act;

“noise reduction notice” has the meaning given by section 66(3) of this Act;

“person responsible”, in relation to

[(a)] the emission of noise, means the person to whose act, default or sufferance the noise is attributable;

[(b), (c) . . .]

[. . .]

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . ., [or hydraulic power], and includes [a universal service provider (within the meaning of [Part 3 of the Postal Services Act 2011]) in his capacity as a person who provides a universal postal service (within the meaning of [that Part])];

“work of engineering construction” means the construction, structural alteration, maintenance or repair of any railway line or siding or any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works or gas-holder.

(2) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part of this Act, except *sections 62 to 67* [section 62], the territorial sea lying seawards from that part of the shore; and—

(a) . . .

(b) this Part of this Act (except *sections 62 to 67* [section 62] and this subsection) shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(i) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel, and

(ii) with such other modifications, if any, as are prescribed.

(3) Where more than one person is responsible for noise, this Part of this Act shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance, or would result in a level of noise justifying action under this Part of this Act [. . .]

[(3A) In the definition of “statutory undertakers” in subsection (1), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

(4) This Part of this Act does not apply to noise caused by aircraft other than model aircraft and does not confer functions on port health authorities.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland for certain purposes): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Appointment (in relation to Scotland for remaining purposes): 1 August 1982: see SI 1982/624, art 2, Schedule.

### Amendment

Sub-s (1): definition “equipment” (omitted) inserted, in relation to Scotland only, by the Noise and Statutory Nuisance Act 1993, s 6, Sch 1, para 7.

Sub-s (1): definition “equipment” (omitted) repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (1): in definition “local authority” in para (a) words omitted repealed by the Local Government

(Wales) Act 1994, ss 22(3), 66(8), Sch 9, para 10(3), Sch 18.

Sub-s (1): in definition “local authority” para (aa) inserted by the Local Government (Wales) Act 1994, ss 22(3), 66(8), Sch 9, para 10(3), Sch 18.

Sub-s (1): in definition “local authority” in para (b) words “a council constituted under section 2 of the Local Government etc (Scotland) Act 1994” in square brackets substituted by the Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 95(7).

Sub-s (1): definition “noise abatement order” and “noise abatement zone” repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (7)(a)(i).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “noise level register” repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (7)(a)(ii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “noise reduction notice” repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (7)(a)(iii).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): definition “person responsible” repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (7)(a)(iv).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (1): in definition “person responsible” para (a) numbered as such, in relation to Scotland only, by the Noise and Statutory Nuisance Act 1993, s 6, Sch 1, para 7.

Sub-s (1): in definition “person responsible” paras (b), (c) inserted, in relation to Scotland only, by the Noise and Statutory Nuisance Act 1993, s 6, Sch 1, para 7.

Sub-s (1): in definition “person responsible” paras (b), (c) repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (1): definition “road noise” (omitted) inserted, in relation to Scotland only, by the Noise and Statutory Nuisance Act 1993, s 6, Sch 1, para 7.

Sub-s (1): definition “road noise” (omitted) repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (1): in definition “statutory undertakers” words omitted repealed by the Electricity Act 1989, s 112(4), Sch 18 and the Gas Act 1986, s 67(4), Sch 9, Pt I.

Sub-s (1): in definition “statutory undertakers” words “or hydraulic power” in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 48.

Sub-s (1): in definition “statutory undertakers” words in square brackets beginning with the words “a universal service provider” substituted by SI 2001/1149, art 3(1), Sch 1, para 38.

Date in force: 26 March 2001: see SI 2001/1149, art 1(2).

Sub-s (1): in definition “statutory undertakers” words “Part 3 of the Postal Services Act 2011” in square brackets substituted by the Postal Services Act 2011, s 91(1), (2), Sch 12, Pt 3, para 97(a).

Date in force: 1 October 2011: see SI 2011/2329, art 3(1).

Sub-s (1): in definition “statutory undertakers” words “that Part” in square brackets substituted by the Postal Services Act 2011, s 91(1), (2), Sch 12, Pt 3, para 97(b).

Date in force: 1 October 2011: see SI 2011/2329, art 3(1).

Sub-s (2): words “sections 62 to 67” in italics in each place they occur repealed and subsequent words in square brackets substituted, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (7)(b).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (2): para (a) repealed by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

Sub-s (3): words omitted inserted, in relation to Scotland only, by the Noise and Statutory Nuisance Act 1993, s 6, Sch 1, para 7, repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (3A): inserted, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 6, para 39(1), (2).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

#### **See Further**

See further, in relation to statutory undertakers: the Water Act 1989, s 190, Sch 25, para 1, the Electricity Act 1989, s 112, Sch 16, para 1 and the Gas Act 1995, s 16(1), Sch 4, para 2(1)(xxii).

#### **74 Penalties**

(1) [ . . . ], a person guilty of an offence against this Part of this Act shall be liable on summary conviction—

- (a) *in the case of a first offence against this Part of this Act, to a fine not exceeding [level 5 on the standard scale]; and*
- (b) *in the case of a second or subsequent offence against this Part of this Act, to a fine not exceeding [level 5 on the standard scale],*

*together, in any case, with a further fine not exceeding £50 for each day on which the offence continues after the conviction.*

(2) In determining whether an offence is a second or subsequent offence against this Part of this Act, account shall be taken of any offence—

- (a) under section 24 of the Public Health (Scotland) Act 1897 by way of contravening a decree or interdict relating to noise; or
- (b) under section 95 of the Public Health Act 1936 by way of contravening a nuisance order relating to noise [; or
- (c) under section 80(4) of the Environmental Protection Act 1990],

as if it were an offence against this Part of this Act.

## NOTES

### Initial Commencement

#### ***To be appointed***

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-s (1): words omitted inserted, in relation to Scotland only, by the Noise and Statutory Nuisance Act 1993, s 6, Sch 1, para 8; repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (1): in para (a) words from “in the case” to “of this Act,” in italics repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (8)(a).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (1): in paras (a), (b) words “level 5 on the standard scale” in square brackets substituted by virtue of the Criminal Justice Act 1982, ss 35, 37, 38, 46.

Sub-s (1): words from “; and (b) in the case” to “after the conviction” in italics repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (8)(b).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (2): words in square brackets inserted by the Environmental Protection Act 1990, s 162, Sch 15, para 15(5).

## Part IV

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**75 ...**

...

**NOTES**

**Amendment**

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

**76 ...**

...

**NOTES**

**Amendment**

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

**77 ...**

...

**NOTES**

**Amendment**

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

**78 ...**

...

**NOTES**

**Amendment**

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

...

**79 ...**

...

**NOTES**

**Amendment**

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

**80 ...**

...

**NOTES**

**Amendment**

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

**81 ...**

...

## NOTES

### Amendment

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

82 . . .

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## NOTES

### Amendment

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

83 . . .

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## NOTES

### Amendment

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

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84 . . .

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## NOTES

### Amendment

Repealed by the Clean Air Act 1993, s 67(3), Sch 6.

## Part V Supplementary Provisions

### *Legal proceedings*

#### **85 Appeals to Crown Court or Court of Session against decisions of magistrates' court or sheriff**

(1) An appeal against any decision of a magistrates' court in pursuance of this Act (other than a decision made in criminal proceedings) shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Crown Court by virtue of any other enactment.

(2) In Scotland an appeal against any decision of the sheriff in pursuance of this Act (other than a decision made in criminal proceedings) shall lie to the Court of Session at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Court of Session by virtue of any other enactment.

(3) Where a person appeals to the Crown Court or the Court of Session against a decision of a magistrates' court or the sheriff dismissing an appeal against a notice served in pursuance of this Act which was suspended pending determination of that appeal, the notice shall again be suspended pending the determination of the appeal to the Crown Court or Court of Session.

[(4) In subsection (2), "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-s (4): inserted, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 6, para 39(1), (3).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

86 . . .

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## NOTES

### Amendment

Repealed by the Water Act 1989, s 190(3), Sch 27, Pt I.

### 87 Miscellaneous provisions relating to legal proceedings

(1) When an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members the preceding provisions of this subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(2) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings for the offence are taken against any other person.

(3) . . . notwithstanding anything in [section 136 of the Criminal Procedure (Scotland) Act 1995], summary proceedings in Scotland for any [offence under section 30F of this Act or regulations or byelaws made in pursuance of section 31 of this Act] may be commenced at any time within one year from the time when the offence was committed, and [subsection (3) of section 136 of the said Act of 1995] shall apply for the purposes of this subsection, . . . as that subsection applies for the purposes of that section.

(4) Where an appeal against a decision of a relevant authority lies to a magistrates court by virtue of any provision of this Act, it shall be the duty of the authority to include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies as aforesaid and specifying the time within which it must be brought.

(5) Where on an appeal to any court against or arising out of a decision of a relevant authority in pursuance of this Act the court varies or reverses the decision it shall be the duty of the authority to act in accordance with the court's decision.

(6) A judge of any court and a justice of the peace shall not be disqualified from acting in cases arising under this Act by reason of his being, as one of several ratepayers or as one of any other class of

persons, liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses of a relevant authority are to be defrayed.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-s (3): repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(q).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (3): words omitted repealed by the Environment Act 1995, ss 106, 120, Sch 16, para 9, Sch 24; first and final words in square brackets substituted by virtue of the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, s 2(4); second words in square brackets substituted by the Environment Act 1995, s 106, Sch 16, para 9(c).

### **88 Civil liability for contravention of s 3(3)**

(1) *Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it or caused or knowingly permitted it to be deposited, in either case so as to commit an offence under section 3(3) or by virtue of section 18(2) of this Act, is liable for the damage except where the damage—*

(a) *was due wholly to the fault of the person who suffered it; or*

(b) *was suffered by a person who voluntarily accepted the risk thereof.*

(2) *The matters which under paragraphs (a) to (c) of subsection (4) of section 3 of this Act may be proved by way of defence to a charge of committing an offence under subsection (3) of that section may be proved also by way of defence to an action brought by virtue of the preceding subsection (the reference in the said paragraph (a) to the charge being construed as a reference to the act alleged to give rise to the liability).*

(3) *In this section—*

*“damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);*

*“fault” has the same meaning as in the Law Reform (Contributory Negligence) Act 1945; and*

*“land” includes such water as is mentioned in section 4(4) of this Act.*

(4) *For the purposes of the following enactments, namely—*

(a) *the Fatal Accidents Acts 1846 to 1959;*

(b) *the Law Reform (Contributory Negligence) Act 1945; and*

[(c) *the Limitation Act 1980],*

and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (1) of this section shall be treated as due to his fault.

(5) Subsection (1) of this section is without prejudice to any liability which arises apart from the provisions of this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to Scotland): 1 January 1978: see SI 1977/1587, art 3, Schedule.

### Amendment

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(r).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (4): para (c) substituted by the Limitation Act 1980, s 40(2), Sch 3.

## *Financial provisions*

### **89 Expenses and receipts of Secretary of State, etc**

(1) There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Secretary of State for the purposes of this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable under any other Act out of money so provided.

(2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **90 Establishment charges and interest in respect of certain expenses of authorities**

(1) ...

(2) [Where a sum is payable to a] relevant authority by any person by virtue of this Act in respect of the expenses incurred by the authority or by virtue of section 36 of the Local Government Act 1974 in respect of establishment charges related to such expenses or by virtue of section 193 of the Local Government (Scotland) Act 1947 in respect of general expenses related to such expenses, then—

- (a) the authority and that person may agree that the sum . . . shall be paid in instalments; and
- (b) the authority shall be entitled to receive from that person interest on the sum . . . , or on such portion of it as is for the time being unpaid, at [such reasonable rate or rates as the authority may determine].

(3) In the application of this section to Scotland, for the references to a water authority there shall be substituted references to [SEPA].

## NOTES

### Initial Commencement

#### **To be appointed**

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(s).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (1): repealed by the Water Act 1989, s 190, Sch 27, Part I.

Sub-s (2): first words in square brackets substituted by the Water Act 1989, s 190, Sch 25, para 48; words omitted repealed by the Water Act 1989, s 190, Sch 27, Part I; final words in square brackets substituted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

Sub-s (3): words in square brackets substituted by the Environment Act 1995, s 120(1), Sch 22, para 29(30).

## 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,

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) . . .
  - (b) any reference to a justice of the peace shall include a reference to the sheriff.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-s (5): para (a) repealed by the Environment Act 1995, s 120, Sch 24.

### Modification

By virtue of the London Local Authorities Act 2000, s 18, this section has effect as if a reference to this Act included a reference to the Environmental Protection Act 1990, ss 45, 46, 47, and to s 19 of the 2000 Act.

## 92 Provisions supplementary to s 91

(1) A person authorised to enter upon any land or vessel in pursuance of the preceding section shall, if so required, produce evidence of his authority before he enters upon the land or vessel.

(2) A person so authorised may take with him on to the land or vessel in question such other persons and such equipment as may be necessary.

(3) Admission to any land or vessel used for residential purposes and admission with heavy equipment to any other land or vessel shall not, except in an emergency or in a case where the land or vessel is unoccupied, be demanded as of right in pursuance of subsection (1) of the preceding section unless a notice of the intended entry has been served on the occupier not less than seven days before the demand.

(4) A person who, in the exercise of powers conferred on him by virtue of the preceding section or this section, enters upon any land or vessel which is unoccupied or of which the occupier is temporarily absent shall leave the land or vessel as effectually secured against trespassers as he found it.

(5) It shall be the duty of a relevant authority to make full compensation to any person who has sustained damage by reason of—

- (a) the exercise by a person authorised by the authority of any powers conferred on the person so authorised by virtue of the preceding section or this section; or
- (b) the failure of a person so authorised to perform the duty imposed on him by the preceding subsection,

except where the damage is attributable to the default of the person who sustained it; and any dispute as to a person's entitlement to compensation in pursuance of this subsection or as to the amount of the compensation shall be determined by arbitration.

(6) A person who wilfully obstructs another person acting in the exercise of any powers conferred on the other person by virtue of the preceding section or this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [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.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-s (6): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

### Modification

By virtue of the London Local Authorities Act 2000, s 18, this section has effect as if a reference to this Act included a reference to the Environmental Protection Act 1990, ss 45, 46, 47, and to s 19 of the 2000 Act.

## 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

- (a) fails without reasonable excuse to comply with the requirements of a notice served on him in pursuance of this section; or
- (b) in furnishing any information in compliance with such a notice, makes any statement which he knows to be false or misleading in a material particular or recklessly makes any statement which is false or misleading in a material particular,

shall be guilty of an offence.

(3A) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.]

(4) . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

Sub-ss (3), (3A): substituted, for sub-s (3) as originally enacted, by the Environment Act 1995, s 112, Sch 19, para 1(3).

Sub-s (4): repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

## 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 [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) . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Sub-ss (1), (2)(a)(i), (iii), (b), (3): Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Sub-s (2)(a)(ii): Appointment (in relation to Scotland): 31 January 1985: see SI 1985/70, art 2(2).

### Amendment

Sub-s (1): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-s (3): repealed by SSI 2006/181, art 2, Schedule, Pt I.

Date in force: 1 April 2006: see SSI 2006/181, art 1.

## [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.]

## NOTES

### Amendment

Substituted by the Water Act 1989, s 190, Sch 25, para 48.

## 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 [other than air pollution] or noise at any place.

(2) Subsections (2) to (5) of section 250 of the 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 . . .

(3) Subsections (2) to (8) of section 210 of the 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 . . .

## NOTES

## **Initial Commencement**

### ***To be appointed***

To be appointed: see s 109(2).

## **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

## **Amendment**

Sub-s (1): words in square brackets inserted by the Clean Air Act 1993, s 67(1), Sch 4, para 2.

Sub-s (2): words omitted repealed by the Water Act 1989, s 190, Sch 27, Part I.

Sub-s (3): words omitted repealed by the Environment Act 1995, s 120, Sch 24.

## **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## **97 Default powers**

(1) If the Secretary of State is satisfied that any other relevant authority has failed to perform any functions which it ought to have performed, he may make an order declaring the authority to be in default.

(2) An order made by virtue of the preceding subsection which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (hereafter in this section referred to as “the defaulting authority”) to perform such of its functions as are specified in the order and may specify the manner in which and the time or times within which those functions are to be performed by the authority.

(3) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself such of the functions of the authority as he thinks fit.

(4) Where any functions of the defaulting authority are transferred in pursuance of the preceding subsection, the amount of any expenses which the Secretary of State certifies were incurred by him in performing those functions shall on demand be paid to him by the defaulting authority.

(5) Any expenses which in pursuance of the preceding subsection are required to be paid by the defaulting authority in respect of any functions transferred in pursuance of this section shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the functions had not been transferred and the expenses had been incurred by the authority in performing them; and the authority shall have the like powers for the purpose of raising any money required in pursuance of this subsection as the authority would have had for the purpose of raising money required for defraying expenses incurred for the purposes of the functions in question.

(6) An order transferring any functions of the defaulting authority in pursuance of subsection (3) of this section may provide for the transfer to the Secretary of State of such of the property, rights, liabilities and obligations of the authority as he considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any property, rights, liabilities and obligations held by him for the purposes of the transferred functions.

(7) The Secretary of State may by order vary or revoke any order previously made by him in pursuance of this section.

(8) In this section “functions”, in relation to an authority, means functions conferred on the authority by virtue of this Act.

(9) This section shall not apply to Scotland.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

### Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 98 Interpretation of Part V

In this Part of this Act—

“functions” includes powers and duties; and

“relevant authority” means—

(a) in England . . . , the Secretary of State, . . . a county council, . . . , 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 [and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker] [, any authority established by the Waste Regulation and Disposal (Authorities) Order 1985]; and

[(aa) in Wales, the Secretary of State, a county council or a county borough council and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker; and]

[(b) in Scotland—

- (i) as respects sections 91 and 92, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994; and
- (ii) as respects this Part other than those sections, the Secretary of State, SEPA or a council constituted under section 2 of the Local Government etc (Scotland) Act 1994.]

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### Amendment

In definition “relevant authority” first words omitted repealed, and para (aa) inserted, by the Local Government (Wales) Act 1994, ss 22(3), 66(8), Sch 9, para 10(4), Sch 18, second words omitted repealed by the Water Act 1989, s 190, Sch 27, Part I, third words omitted repealed by the Local Government Act 1985, s 102, Sch 17; first words in square brackets inserted by the Water Act

1989, s 190, Sch 25, para 48, second words in square brackets inserted by SI 1985/1884, art 5, Sch 2, para 12, para (b) substituted by the Environment Act 1995, s 120(1), Sch 22, para 29(33).

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## **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).

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

#### **Appointment**

Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

### **100 . . .**

. . .

### **NOTES**

#### **Amendment**

Repealed with savings by the Environmental Protection Act 1990, s 162(2), (5), Sch 16, Pt IX.

### **101 Disposal of waste, etc, by Atomic Energy Authority**

*Without prejudice to the powers of the United Kingdom Atomic Energy Authority apart from this section, the Authority shall have power—*

- (a) *to engage in the United Kingdom and elsewhere in such activities relating to the treatment or disposal of waste and other matter as the Secretary of State may from time to time specify by notice given to the Authority; and*
- (b) *to do anything which appears to the Authority to be appropriate for the purpose of exercising the powers conferred on the Authority by the preceding paragraph.*

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

#### **Appointment**

Appointment: 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

#### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(t).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **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 4th June 1974, such payments towards the expenses of the Commission as he may with the approval of the Treasury determine.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 109(2).

#### **Appointment**

Appointment: 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt II.

### **103 . . .**

. . .

### **NOTES**

#### **Amendment**

Repealed by the Clean Air Act 1993, 67(3), Sch 6.

*General*

### **104 Orders and regulations**

(1) Any power conferred by this Act (*except sections . . . , 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 . . . of this Act unless a draft of the regulations or order has been approved by a resolution of each House of Parliament.

(3) . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment: 12 December 1974: see SI 1974/2039, art 3, Schedule, Pt II.

### Amendment

Sub-s (1): words “(except sections 63 and 65(6))” in italics repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (9)(a)(i).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (1): reference omitted repealed by the Environment Act 1995, s 120, Sch 24.

Sub-s (1): words “regulations made by virtue of section 18 of this Act or” in italics repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (9)(a)(ii).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (2): words from “regulations shall be” to “Act and no” in italics repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (9)(b)(i).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (2): words omitted repealed by the Water Act 1989, s 190, Sch 27, Part I.

Sub-s (2): words “regulations or” in italics repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (9)(b)(ii).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Sub-s (3): repealed by the Water Act 1989, s 190, Sch 27, Part I.

## 105 Interpretation etc general

(1) In this Act—

“the Alkali Act” means the Alkali, &c Works Regulation Act 1906;

“county”[, “county borough”] 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;

[“road” (except where the context otherwise requires) has the same meaning as in [Part IV of the New Roads and Street Works Act 1991]:

“roads authority” has the same meaning as in the Roads (Scotland) Act 1984;]

[“SEPA” means the Scottish Environmental Protection Agency;]

*“trade effluent” includes any liquid (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewerage, 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 by or under any Act of the Scottish Parliament]; 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 (1) of section 293 of the Town and Country Planning Act 1990] or, in relation to Scotland, [subsections (1) to (3) of section 242 of the Town and Country Planning (Scotland) Act 1997] have the same meanings in this subsection as in that subsection.

(4) References in this Act to any enactment are references to it as amended by or under any other enactment.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment: 12 December 1974: see SI 1974/2039, art 3, Schedule, Pt II.

## Amendment

Sub-s (1): definition “the Alkali Act” prospectively repealed by the Environmental Protection Act 1990, s 162, Sch 16, Pt I, as from a day to be appointed.

Sub-s (1): in definition beginning “county” words “county borough” in square brackets inserted by the Local Government (Wales) Act 1994, s 22(3), Sch 9, para 10(5).

Sub-s (1): definitions “road” and “roads authority” inserted by the Roads (Scotland) Act 1984, s 156(1), Sch 9, para 74(6)

Sub-s (1): in definition “road” words “Part IV of the New Roads and Street Works Act 1991” in square brackets substituted by the New Roads and Street Works Act 1991, s 168(1), Sch 8, para 105.

Sub-s (1): definition “SEPA” inserted by the Environment Act 1995, s 120(1), Sch 22, para 29(35).

Sub-s (1): definition “trade effluent” repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (10).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (2): in para (b) words “or by or under any Act of the Scottish Parliament” in square brackets inserted, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 6, para 39(1), (4).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Sub-s (3): first words in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 31(2); second words in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 23(2).

## Modification

Sub-s (3) is modified in relation to its application to Scotland (by the substitution of new sub-ss (3)–(3D)) by the Environment Act 1995, Sch 21, Pt II, para 4.

## Transfer of Functions

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Functions under this section: by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999, SI 1999/1750, art 3, Sch 2, functions under sub-s (3C) (as to which see the modification note above) which were exercisable by the Secretary of State are, in so far as they are exercisable in or as regards Scotland, exercisable by the Scottish Ministers acting concurrently with the Secretary of State, subject to the requirement that such functions shall only be exercisable after consultation with the Secretary of State.

## 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) ...

(3) ...

(4) ...

(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) ...

(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.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment: 1 January 1976: see SI 1975/2118, art 3, Schedule, Part IV.

### Amendment

Sub-s (2): repealed by the Environment Act 1995, s 120(3), Sch 24.

Sub-s (3): repealed by the Local Government etc (Scotland) Act 1994, s 180(2), Sch 14.

Sub-s (4): repealed by the Roads (Scotland) Act 1984, s 156(1), (3), Sch 9, para 74(7).

Sub-s (7): repealed by the Public Health etc (Scotland) Act 2008, s 126(1), Sch 3, Pt 1.

Date in force: 1 October 2009: see SSI 2009/319, art 2(a), Sch 1.

## 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.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment: 12 December 1974: see SI 1974/2039, art 3, Schedule, Pt III.

## 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.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Sub-s (1): Appointment (in relation to England and Wales for certain purposes): 12 December

1974: see SI 1974/2039, art 3, Schedule, Pt III.  
 Sub-s (1): Appointment (for certain purposes): 1 January 1975: see SI 1974/2169, art 3(a).  
 Sub-s (1): Appointment (in relation to England and Wales for certain purposes): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.  
 Sub-ss (1), (2): Appointment (in relation to England and Wales for certain purposes): 14 June 1976: see SI 1976/731, art 2, Schedule.  
 Sub-ss (1), (2): Appointment (in relation to England and Wales for certain purposes): 20 July 1976: see SI 1976/956, art 3.  
 Sub-ss (1), (2): Appointment (in relation to Scotland for certain purposes): 18 July 1976: see SI 1976/1080, art 3, Schedule.  
 Sub-s (1): Appointment (in relation to England and Wales for certain purposes): 4 July 1984: see SI 1984/853, art 2(1)(b), (2), Schedule, Pt II.  
 Sub-s (1): Appointment (in relation to Scotland for certain purposes): 4 July 1984: see SI 1984/853, art 2(1)(c), (2), Schedule, Pt III.  
 Sub-ss (1), (2): Appointment (for certain purposes): 31 January 1985: see SI 1985/70, art 2(1), (3), Schedule.  
 Sub-s (2): Appointment (for certain purposes): 1 January 1975: see SI 1974/2169, art 3(b).  
 Sub-s (2): Appointment (for certain purposes): 3 March 1975: see SI 1975/230, art 3.  
 Sub-s (2): Appointment (for certain purposes): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt II.  
 Sub-s (2): Appointment (for certain purposes): 1 April 1977: see SI 1977/336, art 3, Schedule.  
 Sub-s (2): Appointment (in relation to England and Wales for certain purposes): 1 April 1977: see SI 1977/476, art 3, Schedule, Pt II.  
 Sub-s (2): Appointment (for certain purposes): 16 March 1981: see SI 1981/196, art 2.  
 Sub-s (2): Appointment (in relation to England and Wales for certain purposes): 6 June 1988: see SI 1988/818, art 2, Schedule.  
 Sub-s (2): Appointment (in relation to Scotland for certain purposes): 31 May 1991: see SI 1991/1173, art 2.  
 Sub-s (3): Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.  
 Sub-s (3): Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

### **Transfer of Functions**

Functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **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 < . . . > . . . 101 and this section, does not extend to Northern Ireland.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see sub-s (2) above.

## **Appointment**

Appointment: 12 December 1974: see SI 1974/2039, art 3, Schedule, Pt I.

## **Amendment**

Sub-s (3): first reference omitted repealed by the Clean Air Act 1993, s 67(3), Sch 6.

Sub-s (3): final words omitted repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

## **Subordinate Legislation**

Control of Pollution Act 1974 (Commencement No 1) Order 1974, SI 1974/2039 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 2) Order 1974, SI 1974/2169 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 3) Order 1975, SI 1975/230 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 4) Order 1975, S 1975/2118 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 5) Order 1976, SI 1976/731 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 6) Order 1976, SI 1976/956 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 7) Order 1976, SI 1976/1080 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 8) Order 1977, SI 1977/336 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 9) Order 1977, SI 1977/476 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 10) Order 1977, SI 1977/1587 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 13) Order 1978, SI 1978/954 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 14) Order 1981, SI 1981/196 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 15) (Scotland) Order 1982, SI 1982/624 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 17) Order 1984, SI 1984/853 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 18) Order 1985, SI 1985/70 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 19) Order 1988, SI 1988/818 (made under sub-s (2)).

Control of Pollution Act 1974 (Commencement No 20) (Scotland) Order 1991, SI 1991/1183 (made under sub-s (2)).

## **[SCHEDULE 1 NOISE ABATEMENT ZONES]**

## **NOTES**

### **Amendment**

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(u).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

Substituted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

## NOTES

### Amendment

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(u).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

### [1

*Before making a noise abatement order the local authority—*

- (a) *shall serve on every owner, lessee and occupier (other than tenants for a month or any period less than a month) of any of the premises within the area and of a class to which the order will relate; and*
- (b) *shall publish in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order will relate,*

*a notice complying with the requirements set out in the following paragraph.*

### 2

*The requirements referred to in the preceding paragraph are that the notice—*

- (a) *shall state that the local authority propose to make the order, and its general effect;*
- (b) *shall specify a place in the area of the local authority where a copy of the order and of any map or plan referred to in it may be inspected by any person free of charge at all reasonable times during a period of not less than six weeks from the date of the last publication of the notice; and*
- (c) *shall state that within the said period any person who will be affected by the order may by notice in writing to the local authority object to the making of the order.*

### 3

(1) *If an objection is duly made to the local authority within the said period, and is not withdrawn, the local authority shall not make the order without first considering the objection.*

(2) *The local authority may make the order without complying with sub-paragraph (1) of this paragraph if they are satisfied that compliance is unnecessary having regard—*

- (a) *to the nature of the premises to which the order will relate when it comes into force; or*
- (b) *to the nature of the interests of the persons who have made objections which have not been withdrawn.*

(3) *Where the order varies or revokes a previous order, the local authority may, in acting under this paragraph disregard any objection to the order which in their opinion amounts in substance to an objection which was made to the previous order.*

### 4

(1) *Subject to paragraph 5 below, an order shall come into operation on such date after it is made as may be specified in it.*

(2) *Except in the case of an order revoking an existing order or varying an existing order by excluding from it any specified class of premises, the date specified under sub-paragraph (1) above shall not be a date earlier than one month from the date on which the order is made.*

## **5**

*If, before the date on which the order is to come into operation, the local authority—*

- (a) passes a resolution postponing the coming into operation of the order; and*
- (b) publishes a notice stating the effect of the resolution in the London Gazette and once at least in each of two successive weeks in a newspaper circulating in the area to which the order relates,*

*the order shall, unless there is a further postponement under paragraph (a) above, come into operation on the date specified in the resolution.]*

## **NOTES**

### **Amendment**

Substituted by the Local Government, Planning and Land Act 1980, s 1(2), Sch 2.

Repealed, in relation to Scotland, by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(u).

Date in force (in relation to Scotland): 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

Date in force (in relation to England and Wales): to be appointed: see the Regulatory Reform (Scotland) Act 2014, s 61(2).

## **[SCHEDULE 1A**

**. . .]**

## **NOTES**

### **Amendment**

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(v).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

**[Part I**

**. . .]**

## **NOTES**

### **Amendment**

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(v).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

**[. . .]**

## **NOTES**

### **Amendment**

Inserted by the Water Act 1989, ss 169, Sch 23, paras 1, 8.

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(v).

Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[Part II  
...]

**NOTES**

**Amendment**

Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(v).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

[. . .]

**NOTES**

**Amendment**

Inserted by the Water Act 1989, ss 169, Sch 23, paras 1, 8.  
Repealed by the Regulatory Reform (Scotland) Act 2014, s 57, Sch 3, Pt 4, para 16(1), (2)(v).  
Date in force: 30 June 2014: see SSI 2014/160, art 2(1), (2), Schedule.

**SCHEDULE 2  
ALTERATION OF PENALTIES**

Section 99

< . . . >

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 109(2).

**Appointment**

Appointment: 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt II.

**Amendment**

Paras 1–3: repealed by the Environment Act 1995, s 120(3), Sch 24.

Paras 4, 5: repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Paras 6–9, 14, 16: repealed by the Water Consolidation (Consequential Provisions) Act 1991, s 3(1), Sch 3, Pt I.

Para 10: repealed by the Building Act 1984, s 133(2), Sch 7.

Paras 11, 12: repealed by the Environmental Protection Act 1990, s 162(2), Sch 16, Pt III.

Para 13: repealed by the Water Act 1989, s 190(3), Sch 27, Pt I.

Para 15: amends the Water Act 1945, s 19(3); prospectively repealed by the Water Act 1989, s 190(3), Sch 27, Pt II, as from a day to be appointed.

Paras 17, 18: repealed by the Water (Scotland) Act 1980, s 112, Sch 11.

Paras 19, 26, 27: repealed by the Clean Air Act 1993, s 67(3), Sch 6.

Para 20: repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Paras 21–25: apply to Scotland only and amend the Sewerage (Scotland) Act 1968, ss 12(8), 14(6), 24(2), 45(2), 46.

**SCHEDULE 3  
MINOR AND CONSEQUENTIAL AMENDMENTS OF ENACTMENTS**

Section 108

1–16

< . . . >

*The Rivers (Prevention of Pollution) Act 1961*

17

In section 10(1) of the Rivers (Prevention of Pollution) Act 1961 (which among other things relates to inspection chambers provided in compliance with conditions imposed under that Act) and in section 12(1)(ii) of that Act (which authorises the disclosure in connection with the execution of that Act of information of which the disclosure is restricted by that section) the reference to that Act shall include a reference to this Act.

18–31

< . . . >

**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 109(2).

**Appointment**

Paras 1–4: Appointment: 1 January 1975: see SI 1974/2169, art 3(a).

Paras 6, 8, 10, 16, 19, 22, 26, 28, 29: Appointment (in relation to England and Wales): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Para 9: Appointment: 20 July 1976: see SI 1976/956, art 3(a).

Paras 11, 12, 20, 21, 23, 24: Appointment: 31 January 1985: see SI 1985/70, art 2(1), (3), Schedule.

Para 13–15: Appointment: 4 July 1984: see SI 1984/853, art 2(1)(c), (2), Schedule, Pt III.

Paras 16, 22, 26: Appointment (in relation to Scotland): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Para 17: Appointment: 4 July 1984: see SI 1984/853, art 2(1)(b), (2), Schedule, Pt II.

Para 18: Appointment: 14 June 1976: see SI 1976/731, art 3, Schedule.

Para 27: Appointment: 12 December 1974: see SI 1974/2039, art 3, Schedule, Pt III.

**Amendment**

Paras 1–4: repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Para 5: repealed by the Salmon and Freshwater Fisheries Act 1975, s 42(1), Sch 5.

Paras 6, 19: repealed by the Public Health (Control of Disease) Act 1984, s 78, Sch 3.

Para 7: repeals the Public Health Act 1936, ss 79, 80.

Para 8–10: repealed by the Water Consolidation (Consequential Provisions) Act 1991, s 3(1), Sch 3, Part I.

Para 11: amends the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, s 9.

Para 11: repealed, except in relation to the River Tweed and the Upper Esk, by the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, s 70(2), Sch 4, Pt 2 and in relation to the River Tweed by SI 2006/2913, art 76(3), Sch 4, Pt 2.

Date in force (except in relation to the River Tweed and the Upper Esk): 1 April 2005: see SSI 2005/174, art 2.

Date in force (in relation to the River Tweed): 15 November 2006: see SI 2006/2913, art 1(2).

Paras 12, 13: repealed by the Environment Act 1995, s 120, Sch 24.

Para 14: inserts the Rivers (Prevention of Pollution) (Scotland) Act 1951, s 18(6).

Para 15: amends the Rivers (Prevention of Pollution) (Scotland) Act 1951, s 19(3).

Para 16: repealed by the Clean Air Act 1993, s 67(3), Sch 6.

Para 18: repealed by SI 2007/3538, reg 74(2), Sch 23.

Date in force: 6 April 2008: see SI 2007/3538, reg 1(1)(b); for savings see reg 72(2), (10)

thereof.

Paras 20, 21, 27–30: repealed by the Water Act 1989, s 190(3), Sch 27, Part I.

Para 22: repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34, Part II.

Para 23: amends the Spray Irrigation (Scotland) Act 1964, s 9(2).

Para 24: amends the Rivers (Prevention of Pollution) (Scotland) Act 1965, s 10(1).

Para 25: repealed by the Refuse Disposal (Amenity) Act 1978, s 12(2), Sch 2.

Para 26: amends the Hovercraft Act 1968, s 1(1)(g).

Para 31: repealed by the Statute Law (Repeals) Act 1993.

## SCHEDULE 4 REPEALS

Section 108

Chapter	Short title	Extent of repeal
25 & 26 Vict c 97	The Salmon Fisheries (Scotland) Act 1862	Section 13.
38 & 39 Vict c 55	The Public Health Act 1875	Section 148, but not so as to affect any agreement in force under that section.
55 & 56 Vict c 55	The Burgh Police (Scotland) Act 1892	Sections 107 to 109.  ... Sections 111, . . . , 113, 114.  ...
58 & 59 Vict c 42	The Sea Fisheries Regulation (Scotland) Act 1895	Section 8(1)(f).
< . . . >	. . .	. . .
3 Edw 7 c 33	The Burgh Police (Scotland) Act 1903	Section 23.  In section 24, the words “the immediately preceding section or under”.
6 Edw 7 c 14	The Alkali, &c Works Regulation Act 1906	Sections 3, 4, 5 and 8.  In section 9(1) the words “a cement work, or a smelting work”.  In section 11(b) the words “or with the treatment of alkali waste”.  Section 12(1)(d).

		Sections 14, 15 and 17.
		In section 18, in subsection (1) the words “other than an offence against a special rule” and subsection (4).
		Section 19.
		In section 20 the words “other than an offence against a special rule”.
		In section 22(1) the words from “or that any alkali waste is deposited” to “contravention of this Act”.
		In section 28, in paragraph (b) the words “offences against special rules and” and paragraph (c).
13 & 14 Geo 5 c 16	The Salmon and Freshwater Fisheries Act 1923	In section 9(5) the words from “and section 22(1)(a)” onwards.
24 & 25 Geo 5 c 40	The Administration of Justice (Appeals) Act 1934	In the Schedule the entry amending section 17(5) of the Alkali Act.
26 Geo 5 & 1 Edw 8 c 49	The Public Health Act 1936	Sections 72 to 77, 79, 80 and 259(2).
1 Edw 8 and 1 Geo 6 c 5	The Trunk Roads Act 1936	Section 6(6).
1 Edw 8 and 1 Geo 6 c 40	The Public Health (Drainage of Trade Premises) Act 1937	Section 2(4), 3(2) and 4(1) to (3).
		In section 7(1), the proviso.
		Section 11.
		In section 14(1) the definition of “interested body”.
8 & 9 Geo 6 c 42	The Water Act 1945	Section 18.
14 & 15 Geo 6 c 64	The Rivers (Prevention of Pollution) Act 1951	The whole Act.
14 & 15 Geo 6 c 66	The Rivers (Prevention of Pollution) (Scotland) Act 1951	The whole Act except sections 1, 6(1), 7, 9, 10(1), 12(1), to (3) and (4)(a) and (c), 13, 16, 17, 18(1) to (3), 19, 32(1), in section 35(1) the definitions of “contravention”, “functions”, “land”, “local authority”,

		“local water authority”, “river purification authority”, “river purification board”, “stream” and “tidal waters”, section 36(1) and (5) and Schedule 4.
1 & 2 Eliz 2 c 26	The Local Government (Miscellaneous Provisions) Act 1953	Section 8.
4 & 5 Eliz 2 c 52	The Clean Air Act 1956	In section 16(1), in the proviso, paragraph (i).  In section 25, paragraphs (a) and (b).  In section 26, the words “manufacturing process or”.  In Schedule 2, the amendments of sections 3, 8 and 18 of the Alkali Act.
7 & 8 Eliz 2 c 25	The Highways Act 1959	In section 228(9) the words “section one hundred and forty-eight of the Public Health Act 1875”.
8 & 9 Eliz 2 c 34	The Radioactive Substances Act 1960	In Schedule 1, in paragraph 3 the words “seventy-nine”, in paragraph 6 the word “eighteen” and paragraphs 7, 8A and 15.
8 & 9 Eliz 2 c 54	The Clean Rivers (Estuary & Tidal Waters) Act 1960	The whole Act.
8 & 9 Eliz 2 c 68	The Noise Abatement Act 1960	The whole Act, but not so as to affect notices served by virtue of section 1 of the Act before the coming into force of section 58 of this Act.
9 & 10 Eliz 2 c 50	The Rivers (Prevention of Pollution) Act 1961	The whole Act except sections 10, 12, 13(1) and 15(1) and (3).
1961 c 64	The Public Health Act 1961	Sections 55 to 58 and 63(5).
1963 c 33	The London Government Act 1963	In section 40(4)(d), the reference to section 8 of the Local Government (Miscellaneous Provisions) Act 1953, and section 40(4)(g).  In Part I of Schedule 11, paragraphs 14, 16 and 32.

1963 c 38	The Water Resources Act 1963	<p>Sections 72 to 76.</p> <p>In section 79, subsections (1), (2) and (7), in subsection (5) the words “by virtue of subsection (1) of this section or” and in subsection (8) the words from “(including” to “section)”.</p> <p>In section 114, in subsection (1) the words from the first “or” to “section” and the words “or discharge”, and subsections (2) and (4)(a).</p> <p>In section 115(1)(b) the words from “or” to “thereof”.</p> <p>In section 135(8) the word “72”.</p> <p>In Schedule 13, paragraphs 5, 6, 7, 11 and 14.</p>
1965 c 13	The Rivers (Prevention of Pollution) (Scotland) Act 1965	The whole Act except sections 10, 13(1), 15(1) and (4) and 17(1) to (3).
1965 c 36	The Gas Act 1965	Section 4(5).
1966 c 38	The Sea Fisheries Regulation Act 1966	Section 5(1)(c).
1967 c 69	The Civic Amenities Act 1967	Section 23(6)(a).
1967 c 80	The Criminal Justice Act 1967	In Schedule 3, the entry relating to section 114 of the Burgh Police (Scotland) Act 1892, in the entry relating to section 22 of the Public Health (Scotland) Act 1897, the words “(as extended by section 1(5) of the Noise Abatement Act 1960)” and the entries relating to sections 76(3), 94(2) and 95(1) (both as originally enacted and as applied by section 16(1) of the Clean Air Act 1956) of the Public Health Act 1936 and section 27(1) and (2) of the Clean Air Act 1956.
1968 c 41	The Countryside Act 1968	Section 22(6)(c) and (8).
1972 c 21	The Deposit of Poisonous Waste Act 1972	The whole Act

1972 c 70	The Local Government Act 1972	Section 180(3)(d) and (g).  In section 236(2) the words “or 18”.  In Schedule 14, in paragraph 4 the words “79, 80” and paragraphs 5 to 8 and 49.
1973 c 37	The Water Act 1973	Section 17(1) to (4).  Paragraph 5 of Schedule 2.  Paragraph 63 of Schedule 8.
1973 c 65	The Local Government (Scotland) Act 1973	In section 135(3), the words from “and the said areas” to the end.  Section 136.  In Schedule 16, paragraphs 7 to 9.  In Schedule 28, paragraph 69.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 109(2).

### Appointment

Appointment (in part): 1 January 1975: see SI 1974/2169, art 3(b).

Appointment (in part): 3 March 1975: see SI 1975/230, art 3.

Appointment (in relation to England and Wales in part): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt III.

Appointment (in part): 1 January 1976: see SI 1975/2118, art 3, Schedule, Pt II.

Appointment (in relation to England and Wales in part): 14 June 1976: see SI 1976/731, art 3, Schedule.

Appointment (in relation to England and Wales in part): 20 July 1976: see SI 1976/956, art 3(b).

Appointment (in relation to Scotland in part): 18 July 1976: see SI 1976/1080, art 3, Schedule.

Appointment (in part for certain purposes): 1 April 1977: see SI 1977/336, art 3, Schedule.

Appointment (in relation to England and Wales in part): 1 April 1977: see SI 1977/476, art 3, Schedule, Pt II.

Appointment (in part): 16 March 1981: see SI 1981/196, art 2.

Appointment (in part): 31 January 1985: see SI 1985/70, art 2(1), (3), Schedule.

Appointment (in relation to England and Wales in part): 6 June 1988: see SI 1988/818, art 2, Schedule.

Appointment (in relation to Scotland in Part): 31 May 1991: see SI 1991/1173, art 2.

### Amendment

Entry relating to “The Public Health (Scotland) Act 1897” (omitted) repealed by the Public Health etc (Scotland) Act 2008, s 126(1), Sch 3, Pt 1.

Date in force: 1 October 2009: see SSI 2009/319, art 2(a), Sch 1.