



Water Act 1989

1989 CHAPTER 15

PART III

THE PROTECTION AND MANAGEMENT OF RIVERS AND OTHER WATERS

CHAPTER I

CONTROL OF POLLUTION

General provisions

103 Waters to which Chapter I applies

- (1) This Chapter applies to any waters (in this Chapter 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 England and Wales 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 lake 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

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- (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 the Authority 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 the Authority 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;

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

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

“relevant river or watercourse” means (subject to subsection (5) below) 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 England and Wales is to be treated as if it were an area of relevant territorial waters for the purposes of this Chapter;
- (b) that any lake or pond which does not discharge into a relevant river or watercourse or into a relevant lake or pond is to be treated for those purposes as a relevant lake or pond;
- (c) that a lake or pond which does so discharge and is of a description specified in the order is to be treated for those purposes as if it were not a relevant lake or pond;
- (d) that a watercourse of a description so specified is to be treated for those purposes as if it were not a relevant river or watercourse.

- (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.

104 Classification of quality of waters

- (1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.
- (2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—
 - (a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;
 - (b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
 - (c) specific requirements as to other characteristics of those waters;and for the purposes of any such classification regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.

105 Water quality objectives

- (1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on the Authority specifying—
 - (a) one or more of the classifications for the time being prescribed under section 104 above; and
 - (b) in relation to each specified classification, a date,establish the water quality objectives for any waters which are, or are included in, waters of a description prescribed for the purposes of that section.
- (2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.
- (3) Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—
 - (a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or
 - (b) the Authority, after consultation with such water undertakers and other persons as it considers appropriate, requests a review;and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.
- (4) Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters he shall—
 - (a) give notice setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposal may be made; and
 - (b) consider any representations or objections which are duly made and not withdrawn;

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and, if he decides, after considering any such representations or objections, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.

- (5) A notice under subsection (4) above shall be given—
- (a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and
 - (b) by serving a copy of the notice on the Authority.
- (6) If, on a review under this section or in consequence of any representations or objections made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters should remain unchanged, he shall serve notice of that decision on the Authority.

106 General duties to achieve and maintain objectives etc

- (1) It shall be the duty of the Secretary of State and of the Authority to exercise the powers conferred on him or it by or under the following provisions of this Chapter in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in a notice under section 105 above, or in a notice under section 30C of the Control of Pollution Act 1974, are achieved at all times.
- (2) It shall be the duty of the Authority, for the purposes of the carrying out of its functions under this Chapter, to monitor the extent of pollution in controlled waters and to consult, in such cases as it may consider appropriate, with river purification authorities in Scotland.

Controlling and remedying pollution

107 Offences of polluting controlled waters etc

- (1) Subject to section 108 below, a person contravenes this section if he causes or knowingly permits—
 - (a) any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters; or
 - (b) any matter, other than trade effluent or sewage effluent, to enter controlled waters by being discharged from a drain or sewer in contravention of a relevant prohibition; or
 - (c) any trade effluent or sewage effluent to be discharged—
 - (i) into any controlled waters; or
 - (ii) from land in England and Wales, through a pipe, into the sea outside the seaward limits of controlled waters;

or

 - (d) any trade effluent or sewage effluent to be discharged, in contravention of any relevant prohibition, from a building or from any fixed plant on to or into any land or into any waters of a lake or pond which are not inland waters; or
 - (e) any matter whatever to enter any inland waters so as to tend (either directly or in combination with other matter which he or another person causes or permits

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to enter those waters) to impede the proper flow of the waters in a manner leading or likely to lead to a substantial aggravation of—

- (i) pollution due to other causes; or
- (ii) the consequences of such pollution.

(2) For the purposes of this section a discharge of any effluent or other matter is, in relation to any person, in contravention of a relevant prohibition if—

- (a) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge;
- (b) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge unless specified conditions are observed, and those conditions are not observed; or
- (c) the effluent or matter discharged contains a prescribed substance or a prescribed concentration of such a substance or derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts;

but nothing in this subsection shall authorise the giving of such a notice in respect of discharges from a vessel and nothing in any regulations made by virtue of paragraph (c) above shall require any discharge from a vessel to be treated as a discharge in contravention of a relevant prohibition.

(3) A notice given for the purposes of subsection (2)(a) or (b) above shall expire at such time as may be specified in the notice; and that time shall not be before the end of the period of three months beginning with the day on which the notice is given except in a case where the Authority is satisfied that there is an emergency which requires the relevant prohibition in question to come into force at such time before the end of that period as may be so specified.

(4) Where, in the case of such a notice for the purposes of subsection (2)(a) or (b) above as (but for this subsection) would expire at a time which is or is after the end of the said period of three months, an application is made before that time for a consent under this Chapter in respect of the discharge to which the notice relates, that notice shall be deemed not to expire until the result of the application becomes final—

- (a) on the grant or withdrawal of the application;
- (b) on the expiration, without the bringing of an appeal with respect to the decision on the application, of any period prescribed as the period within which any such appeal must be brought; or
- (c) on the withdrawal or determination of any such appeal.

(5) For the purposes of this section where—

- (a) any sewage effluent is discharged as mentioned in subsection (1)(c) or (d) above from any sewer or works vested in a sewerage undertaker; and
- (b) the undertaker did not cause or knowingly permit the discharge but was bound (either unconditionally or subject to conditions which were observed) to receive into the sewer or works matter included in the discharge,

the undertaker shall be deemed to have caused the discharge.

(6) A person who contravenes this section or the conditions of any consent given under this Chapter for the purposes of this section shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

108 Authority for discharges and other defences for the purposes of section 107

- (1) A person shall not be guilty of an offence under section 107 above in respect of the entry of any matter into any waters or any discharge if the entry occurs or the discharge is made under and in accordance with, or as a result of any act or omission under and in accordance with—
 - (a) a consent given under this Chapter or under Part II of the Control of Pollution Act 1974;
 - (b) a disposal licence;
 - (c) a licence granted under Part II of the Food and Environment Protection Act 1985;
 - (d) any local statutory provision or statutory order which expressly confers power to discharge effluent into water; or
 - (e) any prescribed enactment;

but nothing in any disposal licence shall be treated for the purposes of this subsection as authorising any such entry or discharge as is mentioned in paragraphs (b) to (d) of section 107(1) above or as authorising any act or omission so far as it results in any such entry or discharge.
- (2) A person shall not be guilty of an offence under section 107 above in respect of the entry of any matter into any waters or any discharge if—
 - (a) the entry is caused or permitted, or the discharge is made, in an emergency in order to avoid danger to life or health;
 - (b) that person takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry or discharge and of its polluting effects; and
 - (c) particulars of the entry or discharge are furnished to the Authority as soon as reasonably practicable after it occurs.
- (3) A person shall not be guilty of an offence under section 107 above by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.
- (4) A person shall not be guilty of an offence under section 107 above by reason only of his permitting water from an abandoned mine to enter controlled waters.
- (5) A person shall not, otherwise than in respect of the entry of any poisonous, noxious or polluting matter into any controlled waters, be guilty of an offence under section 107 above by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland waters if—
 - (a) he deposits the refuse on the land with the consent of the Authority;
 - (b) no other site for the deposit is reasonably practicable; and
 - (c) he takes all reasonably practicable steps to prevent the refuse from entering those inland waters.
- (6) A highway authority or other person entitled to keep open a drain by virtue of section 100 of the Highways Act 1980 shall not be guilty of an offence under section 107 above by reason of his causing or permitting any discharge to be made from a drain kept open by virtue of that section unless the discharge is made in contravention of a relevant prohibition under section 107 above.

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- (7) A sewerage undertaker shall not be guilty of an offence under section 107 above by reason only of the fact that a discharge from a sewer or works vested in the undertaker contravenes conditions of a consent relating to the discharge if—
- (a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works;
 - (b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and
 - (c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.
- (8) A person shall not be guilty of an offence under section 107 above in respect of a discharge which he caused or permitted to be made into a sewer or works vested in a sewerage undertaker if the undertaker was bound to receive the discharge there either unconditionally or subject to conditions which were observed.
- (9) In this section—
- “disposal licence” has the same meaning as in Part I of the Control of Pollution Act 1974; and
- “statutory order” means an order under section 155 below or any order, byelaw, scheme or award made under any other enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

109 Deposits and vegetation in rivers etc

- (1) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—
- (a) removes from any part of the bottom, channel or bed of any inland waters a deposit accumulated by reason of any dam, weir or sluice holding back the waters; and
 - (b) does so by causing the deposit to be carried away in suspension in the waters.
- (2) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—
- (a) causes or permits a substantial amount of vegetation to be cut or uprooted in any inland waters, or to be cut or uprooted so near to any such waters that it falls into them; and
 - (b) fails to take all reasonable steps to remove the vegetation from those waters.
- (3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (4) Nothing in subsection (1) above applies to anything done in the exercise of any power conferred by or under any enactment relating to land drainage, flood prevention or navigation.
- (5) In giving a consent for the purposes of this section the Authority may make the consent subject to such conditions as it considers appropriate.
- (6) The Secretary of State may by regulations provide that any reference to inland waters in subsection (1) or (2) above shall be construed as including a reference to such coastal waters as may be prescribed.

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110 Requirements to take precautions against pollution

- (1) The Secretary of State may by regulations make provision—
 - (a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing or controlling the entry of the matter into any controlled waters;
 - (b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—
 - (a) confer power on the Authority—
 - (i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or take any precautions or other steps; and
 - (ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;
 - (b) provide for appeals to the Secretary of State against notices served by the Authority in pursuance of provision made by virtue of paragraph (a) above; and
 - (c) provide that a contravention of the regulations shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above.

111 Water protection zones

- (1) Where the Secretary of State, after consultation (in the case of an area wholly or partly in England) with the Minister, considers that it is appropriate, with a view to preventing or controlling the entry of any poisonous, noxious or polluting matter into controlled waters, to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in the pollution of any such waters, he may by order make provision—
 - (a) designating that area as a water protection zone; and
 - (b) prohibiting or restricting the carrying on in the designated area of such activities as may be specified or described in the order.
- (2) Without prejudice to the generality of the power conferred by virtue of subsection (1) above, an order under this section may—
 - (a) confer power on the Authority to determine for the purposes of the order the circumstances in which the carrying on of any activities is prohibited or restricted and to determine the activities to which any such prohibition or restriction applies;
 - (b) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Authority or in contravention of any conditions subject to which any such consent is given;
 - (c) provide that a contravention of a prohibition or restriction contained in the order or of a condition of a consent given for the purposes of any such prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above;

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- (d) provide (subject to any regulations under subsection (4) below) for anything falling to be determined under the order by the Authority to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order;
 - (e) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (f) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (3) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the Secretary of State shall not make such an order except—
- (a) in accordance with Schedule 7 to this Act; and
 - (b) on an application made in accordance with that Schedule by the Authority.
- (4) The Secretary of State may, for the purposes of any orders under this section which require the consent of the Authority to the carrying on of any activities, by regulations make provision with respect to—
- (a) applications for any such consent;
 - (b) the conditions of any such consent;
 - (c) the revocation or variation of any such consent;
 - (d) appeals against determinations on any such application;
 - (e) the exercise by the Secretary of State of any power conferred on the Authority by the orders;
 - (f) the imposition of charges where such an application has been made, such a consent has been given or anything has been done in pursuance of any such consent; and
 - (g) the registration of any such application or consent;
- and, without prejudice to the generality of that power, regulations under this subsection may apply (with or without modifications) any enactment having effect in relation to consents under this Chapter.
- (5) The reference in subsection (1) above to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes.

112 Nitrate sensitive areas

- (1) Where the relevant Minister considers that it is appropriate to do so with a view to achieving the following purpose, that is to say, preventing or controlling the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes, he may by order make provision designating that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.
- (2) Where any area has been designated as a nitrate sensitive area by an order under this section and the relevant Minister considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (1) above, he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement under which, in consideration of payments to be made by the relevant Minister—

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- (a) the owner of the freehold interest in any agricultural land in that area; or
 - (b) where the owner of the freehold interest in any such land has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,
- accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.
- (3) An agreement such as is mentioned in subsection (2) above between the relevant Minister and a person having an interest in any land shall bind all persons deriving title from or under that person to the extent that the agreement is expressed to bind that land in relation to those persons.
- (4) Where it appears to the relevant Minister in relation to any area which is or is to be designated by an order under this section as a nitrate sensitive area that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in subsection (2) above), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—
- (a) with a view to achieving the purpose mentioned in subsection (1) above, require, prohibit or restrict the carrying on on or in relation to any agricultural land in that area of such activities as may be specified or described in the order; and
 - (b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by the Minister or the Secretary of State, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.
- (5) Without prejudice to the generality of subsection (4) above, provision contained in an order under this section by virtue of that subsection may—
- (a) confer power on the Minister or the Secretary of State to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;
 - (b) provide for any requirement to carry on any activity not to apply in cases where the Minister or the Secretary of State has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;
 - (c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Minister or the Secretary of State or in contravention of any conditions subject to which any such consent is given;
 - (d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above;
 - (e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances, and with such interest, as may be specified in or determined under the order; and
 - (f) provide (subject to any regulations under subsection (8) below) for anything falling to be determined under the order by any person to be determined in

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accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.

- (6) An order under this section may—
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the relevant Minister considers appropriate.
- (7) The power of the relevant Minister to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the relevant Minister shall not make such an order except in accordance with any applicable provisions of Schedule 11 to this Act.
- (8) The Secretary of State and the Minister, acting jointly, may, for the purposes of any orders under this section which require the consent of either of those Ministers to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—
- (a) applications for any such consent;
 - (b) the conditions of any such consent;
 - (c) the revocation or variation of any such consent;
 - (d) the reference to arbitration of disputes about determinations on any such application;
 - (e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and
 - (f) the registration of any such application or consent.
- (9) In this section and in Schedule 11 to this Act “the relevant Minister”—
- (a) in relation—
 - (i) to the making of an order in relation to an area which is wholly in Wales; or
 - (ii) to an agreement with respect to land which is wholly in Wales, means the Secretary of State;
 - (b) in relation to the making of an order in relation to an area which is wholly in England or which is partly in England and partly in Wales, means the Minister and the Secretary of State, acting jointly;
 - (c) in relation to an agreement with respect to land which is wholly in England, means the Minister; and
 - (d) in relation to an agreement with respect to land which is partly in England and partly in Wales, means the Secretary of State or the Minister.

113 Consents under Chapter I and application to the Authority

- (1) Schedule 12 to this Act (which makes provision with respect to the making of applications for consents under this Chapter, the giving of such consents and appeals) shall have effect.
- (2) The Secretary of State may by regulations—
- (a) make provision modifying the provisions of this Chapter in relation to cases in which consents under this Chapter are required by the Authority; and

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- (b) for the purposes of the application of the provisions of this Chapter in relation to discharges by the Authority, make such other modifications of those provisions as may be prescribed.
- (3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may provide for such consents as are mentioned in paragraph (a) of that subsection to be required to be given by the Secretary of State (instead of by the Authority) and, in prescribed cases, to be deemed to have been so given.
- (4) A person shall not be guilty of an offence under section 4 of the Salmon and Freshwater Fisheries Act 1975 or section 68 of the Public Health Act 1875 (offences of causing pollution of certain waters) in respect of any entry of matter into any controlled waters which occurs—
 - (a) under and in accordance with a consent under this Chapter or under Part II of the Control of Pollution Act 1974; or
 - (b) as a result of any act or omission under and in accordance with such a consent.

114 Byelaws for preventing pollution of controlled waters

- (1) The Authority may by byelaws make such provision as the Authority considers appropriate—
 - (a) for prohibiting or regulating the washing or cleaning in any controlled waters of things of a description specified in the byelaws;
 - (b) for prohibiting or regulating the keeping or use on any controlled waters of vessels of a description specified in the byelaws which are provided with water closets or other sanitary appliances.
- (2) A person who contravenes any byelaws made by virtue of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale or such smaller sum as may be specified in the byelaws.
- (3) In this section “sanitary appliance”, in relation to a vessel, means any appliance which, not being a sink, bath or shower bath, is designed to permit polluting matter to pass into the water where the vessel is situated and which is prescribed for the purposes of this section.

115 Anti-pollution works and operations

- (1) Subject to subsection (2) below, where it appears to the Authority that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, the Authority shall be entitled to carry out the following works and operations, that is to say—
 - (a) in a case where the matter appears likely to enter any controlled waters, works and operations for the purpose of preventing it from doing so; or
 - (b) in a case where the matter appears to be or to have been present in any controlled waters, works and operations for the purpose—
 - (i) of removing or disposing of the matter;
 - (ii) of remedying or mitigating any pollution caused by its presence in the waters; or
 - (iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment

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of the waters, to their state immediately before the matter became present in the waters.

- (2) Nothing in subsection (1) above shall entitle the Authority to impede or prevent the making of any discharge in pursuance of a consent given under this Chapter.
- (3) Where the Authority carries out any such works or operations as are mentioned in subsection (1) above, it shall, subject to subsection (4) below, be entitled to recover the expenses reasonably incurred in doing so from any person who, as the case may be—
 - (a) caused or knowingly permitted the matter in question to be present at the place from which it was likely, in the opinion of the Authority, to enter any controlled waters; or
 - (b) caused or knowingly permitted the matter in question to be present in any controlled waters.
- (4) No such expenses shall be recoverable from a person for any works or operations in respect of water from an abandoned mine which that person permitted to reach such a place as is mentioned in subsection (3) above or to enter any controlled waters.

116 Codes of good agricultural practice

- (1) The Secretary of State and the Minister, acting jointly, may by order made by statutory instrument approve any code of practice issued (whether by those Ministers 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 them 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 their approval of such a code or modification.
- (2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but the Authority shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise—
 - (a) its power, by giving a notice under section 107(2)(a) or (b) above, to impose a relevant prohibition; and
 - (b) any powers conferred on the Authority by regulations under section 110 above.
- (3) The Secretary of State and the Minister shall not make an order under this section unless they have first consulted the Authority.

Registers

117 Registers for the purposes of Chapter I

- (1) It shall be the duty of the Authority to maintain, in accordance with regulations made by the Secretary of State, registers containing prescribed particulars of—
 - (a) any notices of water quality objectives or other notices served under section 105 above;
 - (b) applications made for consents under this Chapter;

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- (c) consents given under this Chapter and the conditions to which the consents are subject;
 - (d) certificates issued under paragraph 1(7) of Schedule 12 to this Act; and
 - (e) the following, that is to say—
 - (i) samples of water or effluent taken for the purposes of this Chapter by the Authority and information produced by analyses of those samples;
 - (ii) such information with respect to samples of water or effluent taken by any other person and the analyses of those samples as is acquired by the Authority from any person under arrangements made by the Authority for the purposes of this Chapter; and
 - (iii) the steps taken in consequence of any such information as is mentioned in sub-paragraph (i) or (ii) above.
- (2) It shall be the duty of the Authority—
- (a) to secure that the contents of registers maintained by the Authority under this section are available, at all reasonable times, for inspection by the public free of charge; and
 - (b) to afford members of the public reasonable facilities for obtaining from the Authority, on payment of reasonable charges, copies of entries in any of the registers.

Provision and acquisition of information etc.

118 Information and assistance

- (1) It shall be the duty of the Authority, if and so far as it is requested to do so by the Secretary of State or the Minister, to give him all such advice and assistance as appears to it to be appropriate for facilitating the carrying out by the Secretary of State or the Minister of his functions under this Chapter.
- (2) Subject to subsection (3) below, the Secretary of State, the Minister or the Authority may serve on any person a notice requiring him to furnish the Secretary of State, the Minister or, as the case may be, the Authority, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Secretary of State or the Minister or by the Authority for the purpose of carrying out any of his or, as the case may be, its functions under this Chapter.
- (3) The Secretary of State or the Minister may by regulations make provision for restricting the information which may be required under subsection (2) above and for determining the form in which the information is to be so required.
- (4) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

119 Exchange of information with respect to pollution incidents etc

- (1) It shall be the duty of the Authority to provide a water undertaker with all such information to which this section applies as is in the possession of the Authority and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions; and information provided to a water undertaker under this subsection

shall be provided in such form and in such manner and at such times as the undertaker may reasonably require.

- (2) It shall be the duty of every water undertaker to provide the Authority with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the Authority for purposes connected with the carrying out of any of its functions; and information provided to the Authority under this subsection shall be provided in such form and in such manner and at such times as the Authority may reasonably require.
- (3) Information provided under subsection (1) or (2) above to a water undertaker or to the Authority shall be provided free of charge.
- (4) The duties of a water undertaker under subsection (2) above shall be enforceable under section 20 above by the Secretary of State.
- (5) This section applies to information about the quality of any controlled waters or of any other waters or about any incident in which any poisonous, noxious or polluting matter or any solid waste matter has entered any controlled waters or other waters.

120 Local inquiries for the purposes of Chapter I

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—

- (a) for the purposes of the establishment or review under section 105 above of any water quality objectives or otherwise in connection with any provision of this Chapter;
- (b) with a view to preventing or dealing with pollution of any controlled waters; or
- (c) in relation to any other matter relevant to the quality of any such waters.

Criminal and civil liability

121 Offences under Chapter I

- (1) Without prejudice to section 177 below, where the commission by any person of an offence under this Chapter is due to the act or default of some other person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first-mentioned person.
- (2) Notwithstanding anything in section 127 of the Magistrates' Courts Act 1980 (time limit for summary proceedings), a magistrates' court may try any summary offence under this Chapter, or under any subordinate legislation made under this Chapter, if the information is laid not more than twelve months after the commission of the offence.

122 Civil liability and savings

Except in so far as this Chapter expressly otherwise provides and subject to the provisions of section 18 of the Interpretation Act 1978 (which relates to offences under two or more laws), nothing in this Chapter —

- (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 Chapter or any subordinate legislation, consent or other instrument made, given or issued under this Chapter;

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- (b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter; or
- (c) affects any restriction imposed by or under any other enactment, whether public, local or private.

Supplemental provisions of Chapter I

123 Application to radioactive substances

- (1) Except as provided by regulations made by the Secretary of State under this section, nothing in this Chapter shall apply in relation to radioactive waste within the meaning of the Radioactive Substances Act 1960.
- (2) The Secretary of State may by regulations—
 - (a) provide for prescribed provisions of this Chapter to have effect with such modifications as he considers appropriate for dealing with such waste;
 - (b) make such modifications of the said Act of 1960 or, in relation to such waste, of any other Act as he considers appropriate in consequence of the provisions of this Chapter and of any regulations made by virtue of paragraph (a) above.

124 Interpretation of Chapter I

- (1) In this Chapter, except in so far as the context otherwise requires—
 - “agriculture” and “agricultural” have the same meanings as in the Agriculture Act 1947;
 - “coastal waters”, “controlled waters”, “ground waters”, “inland waters” and “relevant territorial waters” have the meanings given by section 103(1) above;
 - “local authority” includes the council of any county;
 - “mine” and “quarry” have the same meanings as in the Mines and Quarries Act 1954;
 - “sewage effluent” includes any effluent from the sewage disposal or sewerage works of a sewerage undertaker but does not include surface water;
 - “trade effluent” includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage.
- (2) In this Chapter—
 - (a) any reference to the waters of any lake or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any lake, 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) For the purposes of the definition of “trade effluent” in subsection (1) above any premises wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be premises used for carrying on a trade.