



Water Resources Act 1991

1991 CHAPTER 57

PART III

CONTROL OF POLLUTION OF WATER RESOURCES

Modifications etc. (not altering text)

- C1** Pt. III (ss. 82-104) modified (subject to other provisions of the amending Act) (1.2.1996) by 1995 c. 25, s. 5(5)(g) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 2
- C2** Pt. III (ss. 82-104): functions transferred to the Environment Agency (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 2(1)(a)(ii) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- C3** Pt. III: definition of “controlled waters” applied (1.12.1991) by water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), Sch. 1 para. 1

CHAPTER I

QUALITY OBJECTIVES

82 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;

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(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.

Modifications etc. (not altering text)

C4 S. 82 modified (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

C5 S. 82 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), Sch. 3 Pt. I para.9 (with s. 46).

83 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 [^{F1}Agency] specifying—
 - (a) one or more of the classifications for the time being prescribed under section 82 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 [^{F1}Agency], 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;
 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

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- (b) by serving a copy of the notice on the [F1Agency].
- (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 [F1Agency].

Textual Amendments

F1 Words in s. 83 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

- C6** S. 83 amended (20.3.1992) by S.I. 1992/337, **reg. 4**
- C7** S. 83 applied (with modifications) (6.1.1997) by S.I. 1996/3001, **reg. 7(1)**
S. 83 applied (with modifications) (26.11.1997) by S.I. 1997/2560, **reg. 5**
- C8** S. 83 modified (12.6.1997) by S.I. 1997/1331, **reg. 6(1)**
S. 83 modified (12.6.1997) by S.I. 1997/1332, **reg. 6(1)**
S. 83 modified (25.3.1998) by S.I. 1998/389, **reg. 5**

84 General duties to achieve and maintain objectives etc.

- (1) It shall be the duty of the Secretary of State and of the [F2Agency] to exercise the powers conferred on him or it by or under the water pollution provisions of this Act (other than the preceding provisions of this Chapter and sections 104 and 192 below) [F3and by the Environmental Permitting Regulations] 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) a notice under section 83 above; or
- (b) a notice under section 30C of the ^{M1}Control of Pollution Act 1974 (which makes corresponding provision for Scotland),
- are achieved at all times.
- (2) It shall be the duty of the [F2Agency], for the purposes of the carrying out of its functions under the water pollution provisions of this Act [F4or under the Environmental Permitting Regulations] —
- (a) to monitor the extent of pollution in controlled waters; and
- (b) to consult, in such cases as it may consider appropriate, with [F5the Scottish Environment Protection Agency].

Textual Amendments

- F2** Words in s. 84 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F3** Words in s. 84(1) inserted (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 8(4)(a)** (with reg. 1(2), Sch. 4)
- F4** Words in s. 84(2) inserted (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 8(4)(b)** (with reg. 1(2), Sch. 4)
- F5** Words in s. 84(2)(b) substituted (S.) (1.4.1996) by S.I. 1996/973, reg. 2, **Sch. para. 11**

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Modifications etc. (not altering text)

C9 S. 84 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

Marginal Citations

M1 1974 c. 40.

CHAPTER II

POLLUTION OFFENCES

Modifications etc. (not altering text)

C10 Pt. III Chapter II (ss. 85-91) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 11**

Principal offences

F⁶85 Offences of polluting controlled waters.

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Textual Amendments

F6 S. 85 repealed (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(a), **Sch. 28** (with reg. 1(2), Sch. 4)

F⁷86 Prohibition of certain discharges by notice or regulations.

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Textual Amendments

F7 S. 86 repealed (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(b), **Sch. 28** (with reg. 1(2), Sch. 4)

F⁸87 Discharges into and from public sewers etc.

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Textual Amendments

F8 S. 87 repealed (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(c), **Sch. 28** (with reg. 1(2), Sch. 4)

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F⁹88 Defence to principal offences in respect of authorised discharges.

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Textual Amendments

F9 S. 88 repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(d), **Sch. 28** (with regs. 1(2), 109(3), Sch. 4)

F¹⁰89 Other defences to principal offences.

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Textual Amendments

F10 S. 89 repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(e), **Sch. 28** (with reg. 1(2), Sch. 4)

Offences in connection with deposits and vegetation in rivers

F¹¹90 Offences in connection with deposits and vegetation in rivers.

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Textual Amendments

F11 S. 90 repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(f), **Sch. 28** (with reg. 1(2), Sch. 4)

Consents for the purposes of sections 88 to 90

F¹²90A Applications for consent under section 89 or 90.

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Textual Amendments

F12 S. 90A repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(g), **Sch. 28** (with reg. 1(2), Sch. 4)

F¹³90B Enforcement notices.

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Textual Amendments

- F13** S. 90B repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(h), **Sch. 28** (with reg. 1(2), Sch. 4)

Appeals in respect of consents under Chapter II

F14⁹¹ **Appeals in respect of consents under Chapter II.**

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Textual Amendments

- F14** S. 91 repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(i), **Sch. 28** (with reg. 1(2), Sch. 4)

[^{F15}CHAPTER IIA

ABANDONED MINES

Textual Amendments

- F15** Chapter IIA (ss. 91A-91B) inserted (subject to other provisions of the amending Act) (21.9.1995 for certain purposes and 1.7.1998 otherwise) by [1995 c. 25, s. 58](#) (with ss. 7(6), 115, 117); [S.I. 1995/1983, art. 3](#) (with art. 4); [S.I. 1998/604, art. 3](#)

F16^{91A} **Introductory.**

- (1) For the purposes of this Chapter, “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) any disclaimer under section 178 or 315 of the ^{M2}Insolvency Act 1986 (power of liquidator, or trustee of a bankrupt’s estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity; or

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(ii) 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 ^{M3}Bankruptcy (Scotland) Act 1985);

and cognate expressions shall be construed accordingly.

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

“the 1954 Act” means the ^{M4}Mines and Quarries Act 1954;

“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 ^{M5}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;

“mine” has the same meaning as in the 1954 Act;

“the official receiver” has the same meaning as it has in the ^{M6}Insolvency Act 1986 by virtue of section 399(1) of that Act;

“prescribed” means prescribed in regulations;

“regulations” means regulations made by the Secretary of State;

“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.

Textual Amendments

F16 Chapter IIA (ss. 91A-91B) inserted (subject to other provisions of the amending Act) (21.9.1995 for certain purposes and 1.7.1998 otherwise) by 1995 c. 25, s. 58 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3 (with art. 4); S.I. 1998/604, art. 3

Marginal Citations

M2 1986 c. 45.

M3 1985 c. 66.

M4 1954 c. 70.

M5 1986 c. 45.

M6 1986 c. 45.

^{F17}91B Mine operators to give the Agency 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 the Agency at least six months before the abandonment takes effect.

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- (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 official receiver acting in a compulsory capacity, or
 - (b) the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the ^{M7}Bankruptcy (Scotland) Act 1985),
- 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 reasonably practicable (whether before or after the abandonment), he gives to the Agency 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 the Agency—
- (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 ^{M8}Environmental Protection Act 1990,
- it shall be the duty of the Agency 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) any unitary authority;
 - (b) any district council, so far as it is not a unitary authority;
 - (c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;
- “unitary authority” means—
- (a) the council of a county, so far as it is the council of an area for which there are no district councils;

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- (b) the council of any district comprised in an area for which there is no county council;
- (c) the council of a London borough;
- (d) the council of a county borough in Wales.]

Textual Amendments

F17 Chapter IIA (ss. 91A-91B) inserted (subject to other provisions of the amending Act) (21.9.1995 for certain purposes and 1.7.1998 otherwise) by 1995 c. 25, s. 58 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3 (with art. 4); S.I. 1998/604, art. 3

Marginal Citations

M7 1985 c. 66.

M8 1990 c. 43.

CHAPTER III

POWERS TO PREVENT AND CONTROL POLLUTION

92 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 [^{F18}Agency]—
 - (i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or to 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 [^{F18}Agency] 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 [^{F19}regulation 39(1) of the Environmental Permitting Regulations] .

[^{F20}(3) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).]

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Textual Amendments

- F18** Words in s. 92 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F19** Words in s. 92(2)(c) substituted (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 8(5)** (with reg. 1(2), Sch. 4)
- F20** S. 92(3) added (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 144** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

- C11** S. 92 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. 1 para. 9** (with s. 46).
- C12** S. 92: power to delegate functions conferred (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

93 Water protection zones.

[^{F21}(1) Where the appropriate national authority considers that either or both of subsections (2) and (2A) is satisfied in relation to any area, it may by order make provision—

- (a) designating that area as a water protection zone; and
- (b) regulating the carrying on in that zone of such activities as may be specified or described in the order.]

[^{F22}(1A) An order under this section may regulate activities carried on in a water protection zone by—

- (a) prohibiting or restricting the carrying on of those activities in the zone; or
- (b) imposing requirements on persons who carry on those activities in the zone to take such steps as may be specified or described in the order.

(1B) The power under subsection (1A)(b) is exercisable only for the purpose of enabling the United Kingdom to comply with its obligations under the Water Framework Directive in relation to any applicable environmental objectives.]

(2) For the purposes of subsection (1) above this subsection is satisfied in relation to any area if ^{F23}... 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 that area of activities which the [^{F24}appropriate national authority] considers are likely to result in the pollution of any such waters.

[^{F25}(2A) For the purposes of subsection (1) this subsection is satisfied in relation to any area if it is appropriate, with a view to preventing or limiting any harm that is being or is likely to be caused to controlled waters, to regulate the carrying on in that area of activities which the appropriate national authority considers are likely to result in such harm.

(2B) In subsection (2A) “harm” means any adverse impact on the condition of any hydromorphological quality element affecting the controlled waters that would be likely to prevent the achievement of any environmental objectives applicable to those waters (whether by itself or in combination with other factors), other than an adverse impact caused by the entry into controlled waters of any poisonous, noxious or polluting matter.

(2C) In subsection (2B) “environmental objectives” and “hydromorphological quality element” have the same meaning as in the Water Framework Directive.]

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- ^{F26}(3)
- (4) Without prejudice to the generality of the power conferred by virtue of subsection (1) above, an order under this section may—
- [^{F27}(a) confer power on the Agency to determine for the purposes of the order—
- (i) the circumstances in which the carrying on of any activities is prohibited or restricted;
 - (ii) the circumstances in which any requirement to take steps is imposed on persons who carry on activities;
 - (iii) the activities to which any such prohibition or restriction or any such requirement (as the case may be) 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 [^{F28}Agency] or in contravention of any conditions subject to which any such consent is given;
- [^{F29}(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 or a failure to comply with a requirement to take steps contained in the order shall be an offence;]
- (d) provide (subject to any regulations under section 96 below) for anything falling to be determined under the order by the [^{F28}Agency] 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 [^{F30}appropriate national authority] considers appropriate.
- [^{F31}(4A) The maximum penalties for an offence created by subsection 4(c) shall not exceed—
- (a) on summary conviction, a term of imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum (or both); and
 - (b) on conviction on indictment, imprisonment for a term not exceeding two years or a fine (or both).]

[^{F32}(5) In this section, “appropriate national authority” means—

 - (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers.

(6) The power to make an order under this section shall be exercisable by statutory instrument subject—

 - (a) in the case of an order made by the Secretary of State, to annulment in pursuance of a resolution of either House of Parliament; and
 - (b) in the case of an order made by the Welsh Ministers, to annulment in pursuance of a resolution of the National Assembly for Wales,

but neither the Secretary of State nor the Welsh Ministers shall make such an order except on an application made by the Agency in accordance with Schedule 11 to this Act and otherwise in accordance with that Schedule.

(7) In this section—

“England” includes the territorial sea adjacent to England not forming any part of Wales and “Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006;

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“the Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.]

Textual Amendments

- F21** S. 93(1) substituted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(2)** (with reg. 7)
- F22** S. 93(1A) inserted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(3)** (with reg. 7)
- F23** Words in s. 93(2) repealed (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(4)(a)** (with reg. 7)
- F24** Words in s. 93(2) substituted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(4)(b)** (with reg. 7)
- F25** S. 93(2A)-(2C) inserted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(5)** (with reg. 7)
- F26** S. 93(3) repealed (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(6)** (with reg. 7)
- F27** S. 93(4)(a) substituted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(7)** (with reg. 7)
- F28** Words in s. 93 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F29** S. 93(4)(c) substituted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(8)** (with reg. 7)
- F30** Words in s. 93(4)(f) substituted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(9)** (with reg. 7)
- F31** S. 93(4A) inserted (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(10)** (with reg. 7)
- F32** S. 93(5)-(7) substituted for s. 93(5) (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **3(11)** (with reg. 7)

Modifications etc. (not altering text)

- C13** S. 93 extended (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 4(3)**.
- C14** S. 93 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

^{F33}94 Nitrate sensitive areas.

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Textual Amendments

- F33** S. 94 repealed (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **4** (with reg. 7)

^{F34}95 Agreements in nitrate sensitive areas.

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Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Part III. (See end of Document for details)

Textual Amendments

- F34** S. 95 repealed (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), 4 (with reg. 7)

96 Regulations with respect to consents required by virtue of section 93 or 94.

- (1) The Secretary of State may, for the purposes of any orders under section 93 above which require the consent of the [^{F35}Agency] 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 [^{F35}Agency] 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.

^{F36}(2)

^{F37}(3)

[^{F38}(4) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).]

Textual Amendments

- F35** Words in s. 96 substituted (subject to other provisions of the amending Act) (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 128](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#) (with art. 4)
- F36** S. 96(2) repealed (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), 4 (with reg. 7)
- F37** S. 96(3) repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1)(b), [Sch. 26 para. 8\(2\)\(j\)](#), [Sch. 28](#) (with reg. 1(2), Sch. 4)
- F38** S. 96(4) added (subject to other provisions of the amending Act) (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 145](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#) (with art. 4)

Modifications etc. (not altering text)

- C15** S. 96: power to delegate functions conferred (1.4.1996) by [1995 c. 25, s. 114\(2\)\(a\)\(v\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#) (with art. 4)

97 Codes of good agricultural practice.

- (1) The Ministers may by order made by statutory instrument approve any code of practice issued (whether by either or both of the 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

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- (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 [^{F39}Agency] shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise—
- [^{F40}(a) its relevant functions, in relation to water discharge activities, under the Environmental Permitting Regulations;]
- (b) any powers conferred on the [^{F39}Agency] by regulations under section 92 above.
- (3) The Ministers shall not make an order under this section unless they have first consulted the [^{F39}Agency].

Textual Amendments

- F39** Words in s. 97 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F40** S. 97(2)(a) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 8(6)** (with reg. 1(2), Sch. 4)

CHAPTER IV

SUPPLEMENTAL PROVISIONS WITH RESPECT TO WATER POLLUTIONS

98 Radioactive substances.

- (1) Except as provided by regulations made by the Secretary of State under this section, nothing in this Part shall apply in relation to radioactive waste within the meaning of [^{F41}the Environmental Permitting Regulations].
- (2) The Secretary of State may by regulations—
- (a) provide for prescribed provisions of this Part to have effect with such modifications as he considers appropriate for dealing with such waste;
- (b) make such modifications of [^{F42}the Environmental Permitting Regulations] or, in relation to such waste, of any other enactment as he considers appropriate in consequence of the provisions of this Part and of any regulations made by virtue of paragraph (a) above.

Textual Amendments

- F41** Words in s. 98(1) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 8(7)(a)** (with reg. 1(2), Sch. 4)
- F42** Words in s. 98(2) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), **Sch. 26 para. 8(7)(b)** (with reg. 1(2), Sch. 4)

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Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Part III. (See end of Document for details)

F43 99 Consents required by the Agency.

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Textual Amendments

F43 S. 99 repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), reg. 1(1)(b), Sch. 26 para. 8(2)(k), **Sch. 28** (with reg. 1(2), Sch. 4)

100 Civil liability in respect of pollution and savings.

Except in so far as this Part expressly otherwise provides and subject to the provisions of section 18 of the ^{M9}Interpretation Act 1978 (which relates to offences under two or more laws), nothing in this Part—

- (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 Part or any subordinate legislation, consent or other instrument made, given or issued under this Part;
- (b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part; or
- (c) affects any restriction imposed by or under any other enactment, whether public, local or private.

Marginal Citations

M9 1978 c. 30.

101 Limitation for summary offences under Part III.

Notwithstanding anything in section 127 of the ^{M10}Magistrates' Courts Act 1980 (time limit for summary proceedings), a magistrates' court may try any summary offence under this Part, or under any subordinate legislation made under this Part, if the information is laid not more than twelve months after the commission of the offence.

Marginal Citations

M10 1980 c. 43.

102 Power to give effect to international obligations.

The Secretary of State shall have power by regulations to provide that the water pollution provisions of this Act shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect—

- (a) to any [^{F44}EU] obligations; or
- (b) to any international agreement to which the United Kingdom is for the time being a party.

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Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Part III. (See end of Document for details)

Textual Amendments

F44 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011](#) (S.I. 2011/1043), arts. 2, 3, 6 (with art. 3(2)(3), 4(2), 6(4)(5))

^{F45} 103 Transitional pollution provisions.

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Textual Amendments

F45 S. 103 repealed (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010](#) (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 8(2)(l), **Sch. 28** (with reg. 1(2), Sch. 4)

104 Meaning of “controlled waters” etc. in Part III.

(1) References in this Part to controlled waters are references to waters of any of the following classes—

- (a) relevant territorial waters, that is to say, subject to subsection (4) 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—
 - (a) the limit of the highest tide; or
 - (b) in the case of the waters of any relevant river or watercourse, 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 freshwaters, 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;

and, accordingly, in this Part “coastal waters”, “controlled waters”, “ground waters”, “inland freshwaters” and “relevant territorial waters” have the meanings given by this subsection.

(2) In this Part 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.

(3) In this section—

“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 section 192 below;

“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 (4) 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;

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“relevant river or watercourse” means (subject to subsection (4) 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.

- (4) 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 Part and of any other enactment in which any expression is defined by reference to the meanings given by this section;
 - (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.
- (5) An order under this section 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.
- (6) 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.

Modifications etc. (not altering text)

- C16** S. 104 definition of "controlled waters" applied by [London Docklands Railway Act 1991 \(c. xxiii\), s. 7\(2\)\(a\)](#)
- C17** S. 104(1) modified (12.6.1997) by [S.I. 1997/1331, reg. 6\(2\)](#)
S. 104(1) modified (12.6.1997) by [S.I. 1997/1332, reg. 6\(2\)](#)
- C18** S. 104(1) modified (1.6.2003 for E.) by [Bathing Waters \(Classification\) \(England\) Regulations 2003 \(S.I. 2003/1238\), regs. 1, 2\(1\)](#)
- C19** S. 104(1)(c) applied (with modifications) (6.1.1997) by [S.I. 1996/3001, reg. 7\(2\)](#)

Status:

Point in time view as at 22/04/2011.

Changes to legislation:

There are currently no known outstanding effects for the Water Resources Act 1991, Part III.