



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART III

#### CONTROL OF POLLUTION OF WATER RESOURCES

#### 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 [<sup>F1</sup>appropriate 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 [<sup>F1</sup>appropriate agency] in pursuance of provision made by virtue of paragraph (a) above; and

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- (c) provide that a contravention of the regulations shall be an offence the maximum penalties for which shall not exceed the penalties specified in [F<sup>2</sup>regulation 39(1) of the Environmental Permitting Regulations].

[F<sup>3</sup>(3) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).]

#### Textual Amendments

- F1** Words in ss. 92-97 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 274\(a\)](#) (with [Sch. 7](#))
- F2** 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](#))
- F3** 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)

- C1** S. 92 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(2\)](#), [Sch. 3 Pt. 1 para. 9](#) (with [s. 46](#)).
- C2** 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](#))
- C3** S. 92 modified by [S.I. 2010/675](#), [Sch. 23 Pt. 8 para. 3 Table 9](#) (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), [reg. 1\(b\)](#), [Sch. 1](#))
- C4** S. 92 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), [reg. 1\(1\)](#), [Sch. 23 Pt. 7 paras. 1\(3\), 2](#) (with [regs. 1\(3\)](#), [77-79](#), [Sch. 4](#))

### 93 Water protection zones.

[F<sup>4</sup>(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.]

[F<sup>5</sup>(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 [F<sup>6</sup>achievement of] any applicable environmental objectives.]

(2) For the purposes of subsection (1) above this subsection is satisfied in relation to any area if F<sup>7</sup>... 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 [F<sup>8</sup>appropriate national authority] considers are likely to result in the pollution of any such waters.

[F<sup>9</sup>(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.

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(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.

<sup>F10</sup>(2C) . . . . .]

<sup>F11</sup>(3) . . . . .

(4) Without prejudice to the generality of the power conferred by virtue of subsection (1) above, an order under this section may—

<sup>F12</sup>(a) confer power on the [<sup>F1</sup>appropriate 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 [<sup>F1</sup>appropriate agency] or in contravention of any conditions subject to which any such consent is given;

<sup>F13</sup>(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 [<sup>F1</sup>appropriate 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 [<sup>F14</sup>appropriate national authority] considers appropriate.

<sup>F15</sup>(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).]

<sup>F16</sup>(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

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(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 [<sup>F1</sup>appropriate 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;

[<sup>F17</sup>“environmental objectives”—

(a) in relation to the Solway Tweed River Basin District, means the objectives as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (S.I. 2004/99);

(b) in relation to the Northumbria River Basin District, means the objectives referred to in the WFD Regulations as applied and modified by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 (S.I. 2003/3245);

(c) in relation to any other river basin district, within the meaning of the WFD Regulations, has the same meaning as in those regulations;

“hydromorphological quality element” has the same meaning as in the Water Framework Directive;

“the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (S.I. 2017/407).]

“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 [<sup>F18</sup>, as last amended by Commission [Directive 2014/101/EU](#).]

#### Textual Amendments

- F1** Words in ss. 92-97 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 274(a)** (with Sch. 7)
- F4** 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)
- F5** 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)
- F6** Words in s. 93(1B) substituted (31.12.2020) by [The Floods and Water \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/558\)](#), regs. 1(1), **4(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** S. 93(2C) omitted (31.12.2020) by virtue of [The Floods and Water \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/558\)](#), regs. 1(1), **4(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** 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)

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- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** Words in s. 93(7) inserted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558), regs. 1(1), **4(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in s. 93(7) inserted (17.9.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 (S.I. 2018/942), regs. 1(2), **29**

**Modifications etc. (not altering text)**

- C5** 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. 1 para. 4(3)**.
- C6** S. 93 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. 1 para. 9** (with s. 46).
- C7** S. 93 modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), reg. 1(b), **Sch. 1**)
- C8** S. 93 modified (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), Sch. 23 Pt. 7 paras. 1(3), **2** (with regs. 1(3), 77-79, Sch. 4)

**F19**<sup>94</sup> **Nitrate sensitive areas.**

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**Textual Amendments**

- F19** 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)

**F20**<sup>95</sup> **Agreements in nitrate sensitive areas.**

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**Textual Amendments**

- F20** 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 [F1appropriate 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;

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- (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 [F1 appropriate 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.

F21(2) .....

F22(3) .....

[F23(4) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).]

**Textual Amendments**

- F1** Words in ss. 92-97 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 274\(a\)](#) (with [Sch. 7](#))
- F21** 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](#))
- F22** 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](#))
- F23** 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)**

- C9** 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
  - (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 [F1 appropriate 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—
  - [F24(a) its relevant functions, in relation to water discharge activities, under the Environmental Permitting Regulations;]
  - (b) any powers conferred on the [F1 appropriate agency] by regulations under section 92 above.

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- (3) The Ministers shall not make an order under this section unless they have first consulted the [<sup>F1</sup>appropriate agency].

**Textual Amendments**

- F1** Words in ss. 92-97 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 274(a)** (with Sch. 7)
- F24** 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)

**Changes to legislation:**

There are currently no known outstanding effects for the Water Resources Act 1991, chapter iii.