



Food and Environment Protection Act 1985

1985 CHAPTER 48

PART II

DEPOSITS IN THE SEA

Licensing

8 Licences.

- (1) In determining whether to issue a licence a licensing authority—
 - (a) shall have regard to the need—
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
 - (b) may have regard to such other matters as the authority considers relevant.
- (2) Without prejudice to the generality of subsection (1) above, where it appears to a licensing authority that an applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, the authority, in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.
- (3) A licensing authority—
 - (a) shall include such provisions in a licence as appear to the authority to be necessary or expedient—
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
 - (b) may include in a licence such other provisions as the authority considers appropriate.

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- (4) Without prejudice to the generality of subsection (3) above, a licensing authority—
- (a) may include in any licence provisions requiring—
 - (i) that no operation authorised by the licence shall be carried out until the licensing authority has given such further consent to or approval of the operation as the licence may specify; and
 - (ii) that automatic equipment shall be used for recording such information relating to any operation of deposit, scuttling or incineration mentioned in the licence as the licensing authority may specify; and
 - (b) may include in a licence which only authorises operations such as are mentioned in section 5(f) or (h) above or section 6(1)(b) above provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it shall take place at a specified site, whether in ^{F1} the Scottish inshore region] or not.
- (5) A licensing authority may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of the authority may be necessary or expedient to enable the authority to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.
- (6) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (4)(a) above, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be ^{F2}... sufficient evidence, of the matters appearing from the record.
- (7) A licensing authority may require an applicant for a licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of processing his application.
- (8) A licensing authority may also require an applicant for a licence to pay a further reasonable fee towards the expense—
- (a) of carrying out any examinations and tests which in the opinion of the authority are necessary or expedient to enable the authority to decide—
 - (i) whether to issue a licence to the applicant; and
 - (ii) the provisions which any licence issued to him ought to include;
 - (b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and
 - (c) of monitoring the effect of such operations.
- (9) Fees under this section shall be determined on principles settled by the Ministers with the consent of the Treasury and after consultation with organisations appearing to the Ministers to represent persons who are likely to apply for licences.
- (10) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that there has been a breach of any of its provisions.
- (11) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that the licence ought to be varied or revoked—
- (a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health; or
 - (b) because of increased scientific knowledge relating to any of those matters; or
 - (c) for any other reason that appears to the authority to be relevant.

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[^{F3}(11A) The matters to which a licensing authority is to have regard in exercising powers under this section include any advice or information given to that authority by the Food Standards Agency (whether of a general nature or in relation to the exercise of a power in a particular case).

(11B) A licensing authority shall from time to time consult the Food Standards Agency as to the general manner in which the authority proposes to exercise its powers under this section in cases involving any matter which may affect food safety or other interests of consumers in relation to food (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).]

(12) Schedule 3 to this Act shall have effect.

Textual Amendments

- F1** Words in s. 8(4)(b) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(5)(a)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F2** Words in s. 8(6) repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 2(5)(b), **Sch. 22 Pt. 2** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)
- F3** S. 8(11A)(11B) inserted (1.4.2000) by 1999 c. 28, s. 18, **Sch. 3 Pt. III para. 16(4)** (with s. 38); S.I. 2000/1066, **art. 2**
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Modifications etc. (not altering text)

- C1** S. 8 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt.I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**
- C2** S. 8(9) applied (with modifications) (24.6.2007) by The Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518), regs. 1, **3(4)**

Changes to legislation:

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