



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.