



Control of Pollution Act 1974

1974 CHAPTER 40

PART II

POLLUTION OF WATER

Control of entry of polluting matter and effluents into water

31 Control of pollution of rivers and coastal waters etc.

- (1) Subject to subsections (2) and (3) of this section, a person shall be guilty of an offence if he causes or knowingly permits—
- (a) any poisonous, noxious or polluting matter to enter any stream or controlled waters or any specified underground water (hereafter in this Part of this Act referred to collectively as "relevant waters"); or
 - (b) any matter to enter a stream so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter the stream) to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of the consequences of such pollution; or
 - (c) any solid waste matter to enter a stream or restricted waters.
- (2) A person shall not be guilty of an offence by virtue of the preceding subsection if—
- (a) the entry in question is authorised by, or is a consequence of an act authorised by, a disposal licence or a consent given by the Secretary of State or a water authority in pursuance of this Act and the entry or act is in accordance with the conditions, if any, to which the licence or consent is subject; or
 - (b) the entry in question is authorised by, or is a consequence of an act authorised by—
 - (i) section 34 of the Water Act 1945 or, in Scotland, section 50 of the Water (Scotland) Act 1946 (which among other things relate to temporary discharges by water undertakers and corresponding Scottish authorities in connection with the construction of works) or any prescribed enactment, or

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- (ii) any provision of a local Act or statutory order which expressly confers power to discharge effluent into water, or
 - (iii) any licence granted under the Dumping at Sea Act 1974; or
 - (c) the entry in question is attributable to an act or omission which is in accordance with good agricultural practice other than an act or omission which—
 - (i) is of a kind specified in a notice which is in force when the entry occurs and which was served in pursuance of subsection (3)(a) of section 51 of this Act on the occupier or any previous occupier of the place where the act or omission occurs, and
 - (ii) occurs after the expiration of the period of twenty-eight days beginning with the date entered in the register mentioned in subsection (4) of that section as the date of service of the notice; or
 - (d) the entry in question is caused or permitted in an emergency in order to avoid danger to the public and, as soon as reasonably practicable after the entry occurs, particulars of the entry are furnished to the water authority in whose area it occurs ; or
 - (e) the matter in question is trade or sewage effluent discharged as mentioned in paragraph (a) of subsection (1) of the following section or matter discharged as mentioned in paragraph (b) or (c) of that subsection and the entry in question is not from a vessel;
- and a person shall not be guilty of an offence by virtue of the preceding subsection by reason only of his permitting water from an abandoned mine to enter relevant waters.
- (3) A person shall not by virtue of paragraph (b) or (c) of subsection (1) of this section be guilty of an offence by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into a stream or restricted waters if—
- (a) he deposits the refuse on the land with the consent (which shall not be unreasonably withheld) of the water authority in whose area the land is situated ; and
 - (b) no other site for the deposit is reasonably practicable; and
 - (c) he takes all reasonably practicable steps to prevent the refuse from entering the stream or restricted waters.
- (4) Provision may be made by regulations as to the precautions to be taken, by any person having the custody or control of any poisonous, noxious or polluting matter, for the purpose of preventing the matter from entering any relevant waters; and the regulations may provide that a contravention of the regulations shall be an offence and may prescribe the maximum penalty for the offence.
- (5) Where it appears to the Secretary of State that, with a view to preventing poisonous, noxious or polluting matter from entering any relevant waters, it is appropriate to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in pollution of the waters, then, subject to section 104(3) of this Act, he may by regulations—
- (a) designate that area ; and
 - (b) provide that prescribed activities shall not be carried on at any place within the area except with the consent (which shall not be unreasonably withheld) of the water authority in whose area the place is situated and in accordance with any reasonable conditions to which the consent is subject; and

- (c) provide that a contravention of the regulations shall be an offence and prescribe the maximum penalty for the offence.
- (6) A water authority may by byelaws make such provision as the authority considers appropriate for prohibiting or regulating the washing or cleaning, in any stream or controlled waters in its area, of things of a kind specified in the byelaws ; and a person who contravenes any byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 or such smaller sum as is specified in the byelaws.
- (7) A person guilty of an offence by virtue of paragraph (a) or (b) of subsection (1) of this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding £400 or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both ;
- and a person guilty of an offence by virtue of paragraph (c) of that subsection shall be liable on summary conviction to a fine not exceeding £200.
- (8) The maximum penalties prescribed in pursuance of subsections (4) and (5) of this section shall not exceed the penalties specified in paragraphs (a) and (b) of the preceding subsection and, in the case of a continuing offence punishable on summary conviction, £50 for each day on which the offence continues after conviction for the offence.
- (9) In subsection (2) of this section—
- " disposal licence " has the same meaning as in Part I of this Act;
 - " local Act " includes enactments in a public general Act which amend a local Act;
 - " statutory order " means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;
- and for the purposes of paragraph (c) of that subsection any practice recommended in a code approved for the purposes of that paragraph by the Minister of Agriculture, Fisheries and Food or, in Scotland, by the Secretary of State shall, without prejudice to any evidence that any further practice is good agricultural practice, be deemed to be good agricultural practice.

32 Control of discharges of trade and sewage effluent etc into rivers and coastal waters etc.

- (1) Subject to subsections (3) to (5) of this section, a person shall be guilty of an offence if he causes or knowingly permits—
- (a) any trade effluent or sewage effluent to be discharged—
 - (i) into any relevant waters, or
 - (ii) from land in Great Britain through a pipe into the sea outside controlled waters, or
 - (iii) from a building or from plant on to or into any land or into any lake, loch or pond which does not discharge into a stream ; or
 - (b) any matter other than trade or sewage effluent to be discharged into relevant waters from a sewer as defined by section 343 of the Public Health Act 1936

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or, in Scotland, by section 59(1) of the Sewerage (Scotland) Act 1968 or from a drain as so defined ; or

- (c) any matter other than trade or sewage effluent to be discharged into relevant waters from a drain which a highway authority or other person is entitled to keep open by virtue of section 103 of the Highways Act 1959, or in Scotland from works which a highway authority is obliged or entitled to keep open by virtue of section 10 of the Roads (Scotland) Act 1970, and in respect of which the water authority in whose area the discharge occurs has, not later than the beginning of the period of three months ending with the date of the discharge, served on the highway authority or other person a notice stating that this paragraph is to apply to the drain or works,

unless the discharge is made with the consent in pursuance of section 34 of this Act of the water authority in whose area the discharge occurs (or, in a case falling within paragraph (a)(ii) of this subsection, of the water authority whose area includes the point at which the pipe passes or first passes into or under controlled waters from the sea outside them) and is in accordance with the conditions, if any, to which the consent is subject.

- (2) Where any sewage effluent is discharged as mentioned in paragraph (a) of the preceding subsection from any works or sewer vested in a water authority and the authority did not cause or knowingly permit the discharge but was bound to receive into the works or sewer, either unconditionally or subject to conditions which were observed, matter included in the discharge, the authority shall be deemed for the purposes of that subsection to have caused the discharge.
- (3) The Secretary of State may—
- (a) by an order made before subsection (1) of this section comes into force provide that that subsection shall not, while the order is in force, apply to discharges which are of a kind or in an area specified in the order and for which, if this Act had not been passed, consent in pursuance of the Rivers (Prevention of Pollution) Acts 1951 to 1961 or the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 or section 72 of the Water Resources Act 1963 would not have been required;
- (b) by order vary or revoke any order in force by virtue of the preceding paragraph;

and an order made by virtue of this subsection may require any water authority specified in the order to publish in a manner so specified such information about the order as is so specified.

- (4) Subsection (1) of this section shall not apply to any discharge which—
- (a) is from a vessel; or
- (b) is authorised by a licence granted under the Dumping at Sea Act 1974 ; or
- (c) is caused or permitted in an emergency in order to avoid danger to the public if, as soon as reasonably practicable after the discharge occurs, particulars of the discharge are furnished to the water authority in whose area it occurs.
- (5) A water authority shall not be guilty of an offence by . virtue of subsection (1) of this section by reason only of the fact that a discharge from a sewer or works vested in the authority 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 ; and

- (b) the authority either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions but the conditions were not observed; and
- (c) the authority could not reasonably have been expected to prevent the discharge into the sewer or works;

and a person shall not be guilty of such an offence in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in a water authority if the authority was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

- (6) In the application of subsection (2) of this section and the preceding subsection to Scotland, for the references to a water authority there shall be substituted references to a local authority within the meaning of the Sewerage (Scotland) Act 1968.
- (7) A person who is guilty of an offence by virtue of subsection (1) of this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £400 or both or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

33 Control of sanitary appliances on vessels

- (1) A water authority may by byelaws make such provision as the authority considers appropriate for prohibiting or regulating the keeping or use, on a stream or restricted waters in the area of the authority, of vessels of a kind specified in the byelaws which are provided with sanitary appliances; and a person who contravenes any byelaw made by virtue of this section shall be guilty of an offence.
- (2) The Secretary of State may by order provide that any byelaws specified in the order which were made by virtue of section 5(1)(c) of the Rivers (Prevention of Pollution) Act 1951 (which, as extended in pursuance of section 6 of that Act, relates to the keeping on streams and other waters of vessels provided with sanitary appliances) or of section 25(1)(c) of the Rivers (Prevention of Pollution) (Scotland) Act 1951 (which makes corresponding provision with respect to streams in Scotland) shall have effect, with such modifications (if any) as are so specified, as if made by virtue of the preceding subsection.
- (3) A person who, after the end of the year 1978, keeps or uses on a stream any vessel provided with a sanitary appliance shall, subject to subsection (8) of this section, be guilty of an offence: and at the end of that year the words " a stream or " in subsection (1) of this section shall cease to have effect.
- (4) The Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly or, in relation to Scotland, the Secretary of State may, by an order made after the end of the year 1978 on the application of a water authority or harbour authority, provide that a person who keeps or uses, on any restricted waters in the area of the authority which are specified in the order, any vessel provided with a sanitary appliance shall, subject to subsection (8) of this section, be guilty of an offence; and when an order is in force by virtue of the preceding provisions of this subsection in relation to any restricted waters, then—
 - (a) subsection (1) of this section shall not apply in relation to the waters ; and
 - (b) the said Ministers acting jointly or, in relation to Scotland, the Secretary of State may, on the application of or after giving notice to the authority on whose application the order was made, by order revoke the order.

- (5) The said Ministers acting jointly or, in relation to Scotland, the Secretary of State may—
- (a) by order provide that so much of any stream as is specified in the order shall be disregarded for the purposes of subsection (3) of this section and treated as restricted waters for the purposes of the preceding subsection; and
 - (b) by order revoke or vary any order in force by virtue of the preceding paragraph.
- (6) In relation to England and Wales paragraphs 1 to 6 of Schedule 8 to the Water Resources Act 1963 (which among other things provide for the publication of a draft of an order to authorise the execution of works, the gazetting of notices relating to the draft order, the furnishing of copies of the draft, the making of an order in the terms of the draft or in those terms with alterations and the making and consideration of objections relating to the draft or alterations) shall have effect in relation to an application for an order in pursuance of subsection (4) of this section (except subsection (4)(b)) as those paragraphs have effect in relation to an application for such an order as is mentioned in the said paragraph 1 but with the substitution—
- (a) for any reference to the Secretary of State of a reference to him and the Minister of Agriculture, Fisheries and Food acting jointly;
 - (b) for any reference to a water authority of a reference to a harbour authority in a case where the application in question is made by a harbour authority;
 - (c) for any reference to the locality where the operations are to be carried out of a reference to the area of the applicant;
 - (d) for any reference to a period of twenty-eight or twenty five days of a reference to a period of six weeks ; and
 - (e) for the words from " engineering" onwards in paragraph 2(d) of the words " waters specified in the draft are situated ",
- and as if paragraph 2(b) were omitted.
- (7) In relation to Scotland paragraphs 1 to 6 of Part I of Schedule 1 to the Water (Scotland) Act 1946 (which make provision with respect to the procedure for the making of certain orders under that Act) shall have effect in relation to an application for an order in pursuance of subsection (4) of this section (except subsection (4)(b)) as those paragraphs have effect in relation to an application for an order to which the said Part I applies, but with the following modifications—
- (a) for any reference to a period of twenty-eight or twenty five days there shall be substituted a reference to a period of six weeks ;
 - (b) in paragraph 2(i), for the words "water authority, regional council, district council and water development board for every area comprised wholly or partly in the area affected by the order " there shall be substituted the words " council of each region or district in which the waters specified in the draft order, or any part thereof, are situated, and on such other bodies or persons as the Secretary of State may direct";
 - (c) paragraph 2(ii) shall be omitted ;
 - (d) in paragraph 3, for the words " districts comprised wholly or partly in the area affected by the order " there shall be substituted the words " areas in which the waters specified in the draft order, or any part thereof, are situated ";
 - (e) in paragraph 6, for the words " authority or board or undertakers" there shall be substituted the words " council, body or person "

- (8) At and after the end of the year 1978 it shall be the duty of each water authority to make arrangements for the fixing, at the request of a person in charge of a vessel provided with a sanitary appliance, of a seal to the vessel or appliance in such a manner that while the seal is affixed matter cannot pass from the appliance into the water on which the vessel is for the time being situated; and while a seal is affixed to a vessel or appliance in pursuance of the arrangements, the appliance to which the seal relates shall be disregarded for the purposes of subsections (3) and (4) of this section.
- (9) Provision may be made by regulations for requiring a person who in prescribed circumstances hires out for payment to another person any vessel provided with a sanitary appliance to give to the other person notice in a prescribed form of prescribed provisions made by or under this section; and a person who fails to comply with a requirement imposed on him by virtue of this subsection shall be guilty of an offence.
- (10) In this section—
- " harbour authority " has the meaning assigned to it by section 57(1) of the Harbours Act 1964; and
- " sanitary appliance " means a water closet or other prescribed appliance (except a sink, a bath and a shower-bath) which is designed to permit polluting matter to pass into the water on which the vessel in question is for the time being situated; and a port health authority shall have power to make such arrangements with a water authority as are mentioned in subsection (8) of this section.
- (11) A person guilty of an offence by virtue of any of the preceding provisions of this section shall be liable on summary conviction to a fine of an amount not exceeding £200.

Consents for discharges

34 Consents for discharges of trade and sewage effluent etc.

- (1) An application to a water authority for consent in pursuance of this section for discharges of any effluent or other matter shall state—
- (a) the place at which it is proposed to make the discharges to which the application relates ;
 - (b) the nature and composition of the matter proposed to be discharged and the maximum temperature of it at the time when it is proposed to be discharged ;
 - (c) the maximum quantity of the matter which it is proposed to discharge on any one day and the highest rate at which it is proposed to discharge it;
- and a water authority may if it thinks fit treat an application for consent for discharges at two or more places as separate applications for consent for discharges at each of those places.
- (2) Subject to the following section, it shall be the duty of a water authority to which an application for consent is made in pursuance of this section—
- (a) to give the consent either unconditionally or subject to conditions or to refuse it; and
 - (b) not to withhold the consent unreasonably ;
- and if within the period of three months beginning with the date when an application for consent is received by a water authority, or within such longer period as may

at any time be agreed upon in writing between the authority and the applicant, the authority has neither given nor refused the consent nor informed the applicant that the application has been transmitted to the Secretary of State in pursuance of the following section, the authority shall be deemed to have refused the consent.

- (3) If it appears to a water authority that a person has, without the authority's consent, caused or permitted matter to be discharged in its area in contravention of section 32(1) of this Act and that a similar contravention by that person is likely, the authority may if it thinks fit serve on him an instrument in writing giving its consent, subject to conditions specified in the instrument, for discharges of a kind so specified; but consent given in pursuance of this subsection shall not relate to any discharge which occurred before the instrument giving the consent was served on the recipient of the instrument.
- (4) The conditions subject to which a water authority may give its consent in pursuance of this section shall be such reasonable conditions as the authority thinks fit; and without prejudice to the generality of the preceding provisions of this subsection those conditions may include reasonable conditions—
- (a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;
 - (b) as to the nature, composition, temperature, volume and rate of the discharges and as to the periods during which the discharges may be made ;
 - (c) as to the provision of facilities for taking samples of the matter discharged and in particular as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;
 - (d) as to the provision, maintenance and testing of meters for measuring the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;
 - (e) as to the keeping of records of the nature, composition, temperature, volume and rate of the discharges and in particular of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent;
 - (f) as to the making of returns and the giving of other information to the water authority about file nature, composition, temperature, volume and rate of the discharges; and
 - (g) as to the steps to be taken for preventing the discharges from coming into contact with any specified underground water;

and it is hereby declared that consent may be given in pursuance of this section subject to different conditions in respect of different periods.

- (5) A person who, in an application for consent in pursuance of this section, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

35 Reference to Secretary of State of certain applications for consent

- (1) The Secretary of State may, either in consequence of representations made to him or otherwise, direct a water authority to transmit to him for determination applications for consent in pursuance of the preceding section which are specified in the direction or are of a kind so specified, and it shall be the duty of the authority to comply

with the direction and to inform each relevant applicant that his application has been transmitted to the Secretary of State.

- (2) Before determining an application transmitted to him by a water authority in pursuance of this section the Secretary of State may if he thinks fit, and shall if a request to be heard with respect to the application is made to him in accordance with regulations by the applicant or the authority, cause a local inquiry to be held in pursuance of section 96 of this Act into the application or afford to the applicant and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Where in pursuance of the preceding subsection the Secretary of State affords to an applicant and a water authority an opportunity of appearing before and being heard by a person with respect to the application in question, it shall be the duty of the Secretary of State to afford an opportunity of appearing before and being heard by that person to any person who, in pursuance of subsection (1)(c) or (5) of the following section, has made representations relating to the application.
- (4) It shall be the duty of the Secretary of State to determine an application transmitted to him by a water authority in pursuance of this section by directing the authority to refuse its consent in pursuance of the preceding section in consequence of the application or to give the consent either unconditionally or subject to such conditions as are specified in the direction, and it shall be the duty of the authority to comply with the direction.

36 Provisions supplementary to ss. 34 and 35

- (1) Where a water authority receives an application for consent in pursuance of section 34 of this Act or serves an instrument in pursuance of subsection (3) of that section, it shall be the duty of the authority, before deciding whether to give or refuse consent in pursuance of the application or, as the case may be, after serving the instrument—
 - (a) to publish in the prescribed form notice of the application or instrument in two successive weeks in a newspaper or newspapers circulating in—
 - (i) the area or areas in which the places are situated at which it is proposed in the application that the discharges should be made or, as the case may be, at which discharges are the subject of consent given by the instrument, and
 - (ii) the area or areas appearing to the water authority to be in the vicinity of any stream or controlled waters which the authority considers likely to be affected by the discharges, and, not earlier than the day following that on which the first publication of the notice is completed in all relevant areas in pursuance of the preceding provisions of this paragraph, to publish such a notice in the London Gazette;
 - (b) to send copies of the application or instrument to each local authority in whose area it is proposed in the application that a discharge should be made or in whose area a discharge is the subject of consent given by the instrument and, in the case of an application or instrument relating to controlled waters or an application relating to the sea outside controlled waters, to the Secretary of State and the Minister of Agriculture, Fisheries and Food ; and
 - (c) to consider any written representations relating to the application or instrument which are made to the authority by any person within the period of six weeks beginning with the date on which the notice of the application or instrument is published in the London Gazette;

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and for the purposes of this subsection " local authority " means the council of a county or district, the Greater London Council, the council of a London borough and the Common Council of the City of London, and any place at sea at which it is proposed in an application that a discharge should be made shall be treated as situated at the point on land nearest to that place.

- (2) In the application of the preceding subsection to Scotland—
 - (a) the reference to the Minister of Agriculture, Fisheries and Food shall be omitted ; and
 - (b) " local authority " means a regional or district council.
- (3) Where notice of an application is published by a water authority in pursuance of subsection (1)(a) of this section, the authority shall be entitled to recover the cost of publication from the applicant.
- (4) A water authority shall be entitled to disregard the provisions of subsection (1) of this section in relation to an application (except so much of paragraph (b) of that subsection as requires copies of the application to be sent to Ministers) if the authority proposes to give consent in pursuance of the application and considers that the discharges in question will have no appreciable effect on the water into which they are proposed to be made.
- (5) The preceding provisions of this section shall have effect with prescribed modifications in relation to an application which is the subject of a direction in pursuance of subsection (1) of the preceding section.
- (6) Where a water authority proposes to give consent in pursuance of section 34 of this Act in consequence of an application in respect of which representations have been made in pursuance of subsection (1)(c) of this section, then—
 - (a) it shall be the duty of the authority to serve notice of the proposal on the person who made the representations and to include in the notice a statement of the effect of the following paragraph ; and
 - (b) that person may, within the period of twenty-one days beginning with the day on which the notice of the proposal is served on him, request the Secretary of State in accordance with regulations to give a direction in pursuance of subsection (1) of the preceding section in respect of the application ; and
 - (c) it shall be the duty of the authority not to give consent in consequence of the application before the expiration of that period and, if within that period the said person makes a request in pursuance of the preceding paragraph and serves notice of the request on the authority, not to give consent in pursuance of the application unless the Secretary of State has given notice to the authority that he declines to comply with the request;

and in calculating in the case of any application the period of three months mentioned in section 34(2) of this Act or a longer period there mentioned there shall be disregarded any period during which the water authority to which the application was made is prohibited by virtue of paragraph (c) of this subsection from giving consent in consequence of the application.

- (7) A consent for any discharges which is given in pursuance of section 34 of this Act is not limited to discharges by a particular person and accordingly extends to the discharges in question which are made by any person.

- (8) Regulations may provide that conditions of a prescribed kind to which a consent given in pursuance of section 34 of this Act is subject shall be disregarded for the purposes of sections 31(2)(a), 32(1) and 54 of this Act.
- (9) A person who without reasonable excuse fails to comply with a condition which by virtue of the preceding subsection is to be disregarded for the purposes there mentioned shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400; but no proceedings for such an offence shall be brought in England and Wales except by or with the consent of the Director of Public Prosecutions or by the water authority which gave the consent.

37 Revocation of consents and alteration and imposition of conditions

- (1) It shall be the duty of a water authority by which a consent is given in pursuance of section 34 of this Act to review from time to time the consent and the conditions, if any, to which the consent is subject; and subject to the following section the authority may, by a notice served on the person making a discharge in pursuance of the consent, revoke the consent if it is reasonable to do so or make reasonable modifications of the said conditions or, in the case of an unconditional consent, provide that it shall be subject to reasonable conditions specified in the notice.
- (2) Subject to the following section, the Secretary of State may, either in consequence of representations made to him or otherwise, direct a water authority to serve a notice in pursuance of the preceding subsection containing such provisions as are specified in the direction and it shall be the duty of the authority to comply with the direction; and if the authority fails to serve the notice within such period as the Secretary of State may allow he may, without prejudice to the generality of the powers conferred on him by section 97 of this Act or, in Scotland, section 211 of the Local Government (Scotland) Act 1973, serve the notice on behalf of the authority, and it is hereby declared that for the purposes of this Part of this Act a notice served on behalf of an authority by virtue of this subsection is served by the authority.

38 Restriction on variation and revocation of consent and of previous variation

- (1) Each instrument signifying the consent of a water authority in pursuance of section 34 of this Act shall specify a period during which no notice in pursuance of subsection (1) of the preceding section is to be served in respect of the consent without the written agreement of a person making a discharge in pursuance of the consent; and the said period shall be a reasonable period of not less than two years beginning with the day on which the consent takes effect.
- (2) Each notice served by a water authority in pursuance of subsection (1) of the preceding section (except a notice which only revokes a consent or conditions) shall specify a period during which a subsequent notice in pursuance of that subsection which alters the effect of the first-mentioned notice is not to be served without the written agreement of a person making a discharge in pursuance of the consent to which the first-mentioned notice relates; and the said period shall be a reasonable period of not less than two years beginning with the day on which the first-mentioned notice is served.
- (3) Nothing in the preceding provisions of this section shall prohibit a notice in pursuance of subsection (1) of the preceding section from being served by a water authority, without such written agreement as is mentioned in those provisions and during the

period specified in any relevant instrument or notice by virtue of those provisions, if the authority (or, in the case of a notice served by virtue of subsection (2) of that section, the Secretary of State) considers—

- (a) that it is necessary to serve the notice in order to provide proper protection for persons likely to be affected by discharges which could lawfully be made apart from the notice; or
 - (b) in the case of a notice relating to a consent given by an instrument served in pursuance of subsection (3) of section 34 of this Act, that it is appropriate to serve the notice in consequence of representations received in pursuance of section 36(1) of this Act with respect to the instrument.
- (4) Where a notice is served by an authority by virtue of the preceding subsection, the authority shall be liable to pay compensation to the recipient of the notice unless it is served in pursuance of the said subsection (1) and not by virtue of the said subsection (2) and either—
- (a) it states that in the opinion of the authority the notice is required—
 - (i) in consequence of a change of circumstances (which may include a change in the information available as to the discharges to which the notice relates or as to the interaction of those discharges with other discharges or matter) which has occurred since the day mentioned in subsection (1) or, as the case may be, subsection (2) of this section and could not reasonably have been foreseen on that day, and
 - (ii) otherwise than in consequence of consents given in pursuance of the said section 34 after that day, and states the reasons for the opinion; or
 - (b) the relevant consent was given by an instrument served in pursuance of subsection (3) of the said section 34 and the notice is served during the period of three months beginning with the date on which notice of the instrument was published in the London Gazette in pursuance of section 36(1) of this Act.
- (5) Provision may be made by regulations as to the manner of determining the amount of any compensation payable in pursuance of this section including the factors to be taken into account in determining that amount.

39 Appeals to Secretary of State

- (1) Any question as to whether—
- (a) a water authority has unreasonably withheld its consent in pursuance of section 31(3) or 34 of this Act or regulations made by virtue of section 31(5) of this Act or has given its consent in pursuance of the said section 34 or such regulations subject to conditions which are unreasonable; or
 - (b) a notice served in pursuance of section 37(1) of this Act contains terms (other than a term required by subsection (2) of the preceding section) which are unreasonable; or
 - (c) the period specified in any instrument or notice in pursuance of subsection (1) or (2) of the preceding section is unreasonable,

shall, subject to the following subsection, be determined for the purposes of this Part of this Act by the Secretary of State; but no question relating to a determination of the Secretary of State in pursuance of section 35(4) of this Act shall be referred to him in pursuance of this subsection and any such determination shall be final.

- (2) Where the consent of a water authority in pursuance of regulations made by virtue of section 31(5) of this Act is withheld for any activity or is given subject to conditions

for any activity and the applicant for the consent obtains a certificate from the Minister of Agriculture, Fisheries and Food stating that the activity in question is a good agricultural practice, any question as to whether the water authority has unreasonably withheld the consent or given it subject to conditions which are unreasonable shall be determined for the purposes of this Part of this Act by the Secretary of State and the said Minister acting jointly.

This subsection shall not apply to Scotland.

- (3) If a water authority serves on any person a notice in pursuance of section 37 of this Act which contains such a statement as is mentioned in paragraph (a) of subsection (4) of the preceding section, that person or another person authorised by him in that behalf may request the Secretary of State to direct that that subsection shall have effect in relation to the notice as if the statement were omitted and the Secretary of State may if he thinks fit comply with the request.
- (4) Provision may be made by regulations as to the manner in which and the time within which a question may be referred or a request may be made in pursuance of the preceding provisions of this section and as to the procedure for dealing with such a reference or request.
- (5) In any case where—
 - (a) a question as to whether a water authority has unreasonably withheld its consent in pursuance of section 34 of this Act, or has given its consent in pursuance of that section subject to conditions which are unreasonable, is referred to the Secretary of State in pursuance of this section; and
 - (b) representations relating to the application for the consent in question were made to the authority in pursuance of section 36(1)(c) of this Act,it shall be the duty of the Secretary of State, before he determines the question, to secure that the authority has served notice of the reference on the persons who made the representations and to take account of any further written representations relating to the application which are received by him from those persons within a prescribed period.
- (6) Where a question is referred to the Secretary of State in pursuance of subsection (1) of this section and he determines that the consent in question was unreasonably withheld or that the conditions or terms or period in question are or is unreasonable, he shall give to the relevant water authority such a direction as he thinks fit with regard to the consent, conditions, terms or period and it shall be the duty of the authority to comply with the direction; and the preceding provisions of this subsection shall apply to a reference in pursuance of subsection (2) of this section as they apply to a reference in pursuance of subsection (1) of this section but as if for any reference in those provisions to the Secretary of State there were substituted a reference to him and the said Minister acting jointly.
- (7) The withholding by a water authority of such a consent as is mentioned in subsection (1) of this section, the conditions subject to which such a consent is given and such terms and period as are so mentioned shall be treated as reasonable for the purposes of this Part of this Act until the contrary is determined in pursuance of subsection (1) or (2) of this section except that where a question as to the reasonableness of the conditions of a consent given in pursuance of regulations made by virtue of section 31(5) of this Act is referred to the Secretary of State or to him and the said Minister in pursuance of this section the consent shall be treated for those purposes as unconditional while the reference is pending.

- (8) At any stage of the proceedings on a reference to the Secretary of State or to him and the said Minister in pursuance of this section he or they may, and shall if so directed by the High Court or, in Scotland, the Court of Session, state in the form of a special case for the decision of the court any question of law arising in those proceedings ; and in England and Wales the decision of the court on the special case shall be deemed to be a judgment of the court within the meaning of section 27 of the Supreme Court of Judicature (Consolidation) Act 1925 (which relates to the jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court) but no appeal to the Court of Appeal shall be brought by virtue of this subsection except with the leave of that court or the High Court.

40 Transitional provisions relating to consents

- (1) Regulations may provide—
- (a) for any consent for discharges which was given in pursuance of the Rivers (Prevention of Pollution) Acts 1951 to 1961 or the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 or section 72 of the Water Resources Act 1963 to have effect for any of the purposes of this Part of this Act as if given in pursuance of prescribed provisions of section 34 of this Act; and
 - (b) for any conditions to which such a consent was subject in pursuance of any of those enactments to have effect for any of those purposes as if attached to the consent in pursuance of prescribed provisions of this Part of this Act.
- (2) Regulations may provide for the terms of a consent for an outlet which was given in pursuance of the Rivers (Prevention of Pollution) Act 1951 and for conditions to which such a consent was subject in pursuance of that Act or which were imposed with respect to the outlet in pursuance of section 7(4) of that Act—
- (a) to have effect, with or without modifications, for any of the purposes of this Part of this Act as if the terms or conditions were conditions attached to a consent given in pursuance of section 34 of this Act for discharges from the outlet; or
 - (b) to be treated, with or without modifications, for any of those purposes in such other manner as may be prescribed.

In the application of this subsection to Scotland, for the references to the Rivers (Prevention of Pollution) Act 1951 and to section 7(4) of that Act there shall be substituted respectively references to the Rivers (Prevention of Pollution) (Scotland) Act 1951 and to section 28(4) of that Act.

- (3) An application for such a consent as is mentioned in subsection (1) of this section which is pending immediately before the relevant day shall be treated on and after that day as an application for consent in pursuance of section 34 of this Act which was made on the day on which it was actually made.
- (4) Where an application for consent in pursuance of section 34 of this Act in respect of any discharge is duly made to a water authority before the relevant day and the discharge in question is not such as is mentioned in section 32(3)(a) of this Act and is substantially a continuation of a previous discharge which during the year ending with the 30th April 1974 was lawfully made without such consent as is so mentioned (any reduction of the temperature, volume or rate of the discharge as compared with that of the previous discharge being disregarded), the authority shall be deemed to have given unconditionally the consent applied for—

- (a) until the authority actually gives the consent unconditionally ; or
 - (b) if the authority decides to refuse consent or to give it subject to conditions, until the expiration of the period of three months beginning with the date when the authority serves on the applicant notice of the decision; or
 - (c) if during that period the applicant appeals to the Secretary of State against the decision in pursuance of the preceding section, until the determination of the appeal.
- (5) Regulations may provide for any appeal which immediately before the relevant day is pending in pursuance of the the Rivers (Prevention of Pollution) Acts 1951 to 1961, the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 or section 72(3) of the said Act of 1963 to be treated on and after that day as an appeal in pursuance of prescribed provisions of this Part of this Act.
- (6) In this section " the relevant day " means the day when section 32(1) of this Act comes into force.

Ancillary provisions relating to control of discharges

41 Registers

- (1) It shall be the duty of water authorities to maintain, in accordance with regulations, registers containing prescribed particulars of—
- (a) applications for consents made to the authorities in pursuance of this Part of this Act;
 - (b) consents given in pursuance of any provision of this Part of this Act (except section 40(4)) and the conditions to which the consents are subject;
 - (c) samples of effluent taken by the authorities in pursuance of section 113(1) of the Water Resources Act 1963 or, in Scotland, section 19 of the Rivers (Prevention of Pollution) (Scotland) Act 1951, samples of water taken by the authorities, information produced by analyses of the samples and the steps taken in consequence of the information;
 - (d) certificates issued in pursuance of the following section ;
 - (e) notices of which copies have been served on the authorities in pursuance of section 51(3)(b) of this Act other than notices of rejections of applications.
- (2) It shall be the duty of a water authority—
- (a) to secure that registers maintained by the authority in pursuance of the preceding subsection are, after such date as is prescribed with respect to the registers, open to inspection by the public free of charge at all reasonable hours; and
 - (b) to afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

42 Power of Secretary of State to exempt applications, consents and conditions etc from publicity

- (1) If a person who proposes to make or has made an application to a water authority for any consent in pursuance of section 34 of this Act (hereafter in this subsection referred to as " the relevant application ")—

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- (a) applies to the Secretary of State within a prescribed period for a certificate providing that section 36(1) of this Act and paragraphs (a) to (c) and (e) of subsection (1) of the preceding section shall not apply to the relevant application or to any consent given or conditions imposed in consequence of the relevant application or to any sample of effluent taken from a discharge for which consent is given in consequence of the relevant application or to information produced by analysis of such a sample ; and
- (b) satisfies the Secretary of State that it would—
 - (i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or
 - (ii) be contrary to the public interest,
 if a certificate were not issued in pursuance of his application to the Secretary of State,

the Secretary of State may issue a certificate to that person providing that section 36(1) of this Act and those paragraphs shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.

- (2) If a person who is making or proposes to make a discharge which is the subject of a consent given in pursuance of the Rivers (Prevention of Pollution) Acts 1951 to 1961 or the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 or section 72 of the Water Resources Act 1963—
 - (a) applies to the Secretary of State for a certificate providing that subsection (1) (b) or (c) of the preceding section shall not apply to the consent or any conditions to which the consent is subject or any sample of effluent taken from a discharge to which the consent relates or any information produced by analysis of such a sample ; and
 - (b) satisfies the Secretary of State as mentioned in paragraph (b) of the preceding subsection,

the Secretary of State may issue a certificate to that person providing that the said subsection (1)(b) or (c) shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.

Control of discharges of trade effluent into public sewers

43 Control of discharges into sewers

- (1) No discharge of trade effluent from any trade premises into a sewer of a water authority shall after the appointed day be authorised by virtue of—
 - (a) section 4 of the Public Health (Drainage of Trade Premises) Act 1937 (which relates to certain cases in which discharges were lawfully made before the passing of that Act or before the alteration of the relevant sewerage system); or
 - (b) any agreement which is mentioned in section 7(4) of that Act (under which any agreement with respect to any trade effluent which was duly made between a local authority and the owner or occupier of any trade premises before the commencement of that Act is not affected by that Act) and which does not contain express provision enabling the authority to terminate the agreement, so far as it relates to discharges of trade effluent into the sewer of the authority, whether or not there is a breach of the agreement by a person other than the authority ;

and accordingly subsections (1) to (3) of the said section 4 shall cease to have effect at the end of the appointed day.

- (2) Where any discharges of trade effluent from any premises in the area of a water authority into a sewer were authorised by virtue of the said section 4 or such an agreement immediately before the date of the passing of this Act and the owner or occupier of the premises gives notice to the authority within the period of six months beginning with that date stating that such discharges from the premises were so authorised, consent shall be deemed to be duly given on the appointed day by the authority for such discharges from the premises into the sewer after that day as were authorised by virtue of the said section 4 or the agreement immediately before the date aforesaid and shall be deemed to be so given subject to the same conditions (if any) as to charges or otherwise as—
 - (a) in the case of discharges authorised by virtue of the said section 4, the conditions to which by virtue of an agreement (whether subsisting or not) or of a direction given in pursuance of section 55 or 57 of the Public Health Act 1961 (which relate to charges and to conditions dealing with other matters) the discharges were subject immediately before the appointed day ; and
 - (b) in the case of discharges authorised by an agreement mentioned in the said section 7(4), the conditions to which the discharges were subject immediately before the appointed day.
- (3) The water authority whose consent for any discharge is deemed to be given by virtue of the preceding subsection may at any time after the appointed day, and shall if the authority is requested after the appointed day to do so by any person entitled to make a discharge in pursuance of the consent, by a notice served on the owner and any occupier of the premises in question cancel the deemed consent and, subject to the following subsection, give its actual consent for such discharges as were authorised by the deemed consent.
- (4) An actual consent given in pursuance of the preceding subsection shall be so given either unconditionally or subject to any conditions which under section 2(3) of the said Act of 1937 (including section 59 of the said Act of 1961) may be attached to consents, any reference to a trade effluent notice in paragraphs (a) and (d) of the said section 2(3) being construed for the purposes of this subsection as a reference to the actual consent; and the notice signifying the actual consent shall indicate that a right of appeal is conferred by virtue of the following subsection in respect of the notice.
- (5) A person on whom notice is served in pursuance of subsection (3) of this section may, in accordance with regulations, appeal to the Secretary of State against the notice; and on any such appeal the Secretary of State may give to the water authority in question such a direction as he thinks fit with respect to the notice and it shall be the duty of the authority to comply with the direction.
- (6) Provision may be made by regulations with respect to consents and the conditions of consents for discharges of trade effluent into a sewer of a water authority through a drain or sewer provided after the appointed day by the authority in pursuance of section 42 of the Public Health Act 1936 (which enables a water authority to close certain drains and sewers if it provides alternative drains or sewers which are equally convenient).
- (7) This section does not apply to Scotland.

44 Provisions supplementary to s. 43

- (1) It is hereby declared that a direction may be given in pursuance of subsection (1) of section 60 of the Public Health Act 1961 varying the conditions attached to an actual consent given in pursuance of the preceding section and that the other provisions of Part V of that Act have effect accordingly.
- (2) Notwithstanding anything in subsection (4) of the preceding section or the preceding subsection, where a deemed consent is cancelled by a notice giving an actual consent in pursuance of subsection (3) of the preceding section and the deemed consent was by virtue of subsection (2) of the preceding section subject to a condition which was the same as one imposed by a direction given in pursuance of section 55 or 57 of the said Act of 1961, then—
- (a) in a case where the condition related to charges, a different condition as to charges, and
 - (b) in a case where the condition did not relate to charges, a different condition as to any matter except charges,
- shall not, except with the written agreement of the owner and any occupier of the premises in question or in pursuance of the following section, be attached to the actual consent during the period during which, by virtue of subsection (3) of the said section 55 or subsection (2) of the said section 57, no further direction to the said owner or occupier in pursuance of that section in respect of charges or, as the case may be, in respect of other matters could have been given without his consent if the said section 55 or 57 had remained in force.
- (3) Provision may be made by regulations—
- (a) for determining by arbitration or otherwise whether any such agreement as is mentioned in subsection (1)(b) of the preceding section relates also to a matter other than the discharge of trade effluent into a sewer of a particular water authority;
 - (b) for determining as aforesaid what modifications (if any) of such an agreement relating also to such a matter are appropriate in consequence of any prescribed provision of the preceding section ;
 - (c) where the conditions mentioned in paragraph (b) of subsection (2) of the preceding section include a condition as to charges which are in respect of the discharges in question and other matters, for determining as aforesaid the proportion of the charges attributable to the discharges and for limiting accordingly the conditions to which the discharges are, for the purposes of that paragraph, to be treated as subject immediately before the appointed day.
- (4) Section 70 of the said Act of 1961 (which provides for a copy of each direction given by a water authority in pursuance of Part V of that Act to be kept available for inspection and copying by any person at all reasonable times) shall apply to a notice given in pursuance of subsection (3) of the preceding section as it applies to such a direction.
- (5) In the preceding section and this section " the appointed day " means such day after the expiration of six months beginning with the date on which this Act is passed as the Secretary of State may by order appoint; and an expression used in any provision of the preceding section or this section and in the said Act of 1937 has the same meaning in that provision as in that Act.
- (6) This section does not apply to Scotland.

45 Early variation of conditions of discharges

- (1) Notwithstanding anything in subsection (2) of section 60 of the Public Health Act 1961 (under which a water authority may not, except with the written consent of the owner and occupier of the relevant trade premises, give a direction under subsection (1) of that section varying the conditions of its consent to the discharge of trade effluent into a public sewer within two years from the date of the consent or of notice of a previous direction), a water authority may give such a direction within the period mentioned in the said subsection (2) without such written consent as aforesaid if the authority considers it necessary to do so in order to provide proper protection for persons likely to be affected by discharges which could lawfully be made apart from the direction.
- (2) Where a water authority gives such a direction by virtue of the preceding subsection, the authority shall be liable to Day compensation to the owner and occupier of the trade premises to which the direction relates unless the authority is of opinion that the direction is required—
 - (a) in consequence of a change of circumstances (which may include a change in the information available as to the discharges to which the consent in question relates or as to the interaction of those discharges with other discharges or matter) which has occurred since the beginning of the period of two years in question and could not reasonably have been foreseen at the beginning of that period ; and
 - (b) otherwise than in consequence of consents for discharges given after the beginning of that period;and where the authority is of such an opinion it shall be the duty of the authority to give to the owner and occupier of the said premises notice of its reasons for the opinion.
- (3) Subsection (5) of section 38 of- this Act shall have effect as if the reference to that section included a reference to this section.
- (4) A person to whom notice is given in pursuance of subsection (2) of this section may, in accordance with regulations, appeal to the Secretary of State against the notice on the ground that compensation should be paid in consequence of the direction to which the notice relates; and on any such appeal the Secretary of State may direct that that subsection shall have effect as if the authority had not been of the opinion to which the notice relates.
- (5) This section does not apply to Scotland.

Miscellaneous

46 Operations by water authorities to remedy or forestall pollution of water

- (1) Where it appears to a water authority that pollution injurious to the fauna or flora of a stream in its area has been caused in consequence of discharges made by virtue of a consent given by the authority in pursuance of section 34 of this Act after the date when this section comes into force or discharges made by virtue of a variation of a consent in pursuance of that section which was made by the authority after that date, then, subject to the following subsection, it shall be the duty of the authority—
 - (a) to exercise the powers conferred on it by section 37(1) of this Act with a view to ensuring that further discharges of a kind which caused the injurious pollution in question are not made by virtue of the consent or variation or are not so made after such a period as the authority considers necessary for

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- the purpose of allowing a person making discharges by virtue of the consent or variation to secure that the discharges are not of such a kind or to make arrangements for discontinuing the discharges; and
- (b) in a case where the authority considers that a period is necessary for the purpose aforesaid, to carry out as soon as reasonably practicable such operations as the authority considers appropriate with a view to remedying or mitigating the injurious pollution in question; and
 - (c) to carry out, as soon as reasonably practicable or after the expiration of the said period, such operations as are necessary for the purpose of restoring the fauna and flora of the stream, so far as it is reasonably practicable to do so, to the state in which they were immediately before discharges were made by virtue of the consent or variation.
- (2) If it appears to a water authority that injurious pollution of a stream in its area has been caused in consequence of discharges made as mentioned in the preceding subsection but that further discharges so made after such a period as the authority considers reasonable in the circumstances will, after the carrying out of such operations as are mentioned in paragraph (c) of that subsection, not cause injurious pollution of the stream, then—
- (a) the authority shall not be required by virtue of paragraph (a) of the preceding subsection to exercise the powers there mentioned; but
 - (b) it shall be the duty of the authority—
 - (i) to carry out as soon as reasonably practicable such operations as are mentioned in paragraph (b) of the preceding subsection, and
 - (ii) to carry out, after the expiration of the period mentioned in the preceding provisions of this subsection, such operations as are mentioned in paragraph (c) of the preceding subsection.
- (3) The duty imposed on a water authority by virtue of subsection (1)(a) of this section shall be performed notwithstanding anything in subsections (1) and (2) of section 38 of this Act; but—
- (a) where in the performance of that duty a notice is served in consequence of which compensation would have been payable in pursuance of subsection (4) of that section if the notice had been served by virtue of subsection (3) of that section, compensation shall be so payable as if the notice had been so served; and
 - (b) nothing in this section shall be construed as restricting the powers conferred on the Secretary of State by section 37(2) of this Act.
- (4) Where it appears to a water authority that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or is or was present in, any relevant waters in its area, the authority may, without prejudice to any duty imposed on it by virtue of the preceding provisions of this section, carry out in its area or elsewhere such operations as it considers appropriate—
- (a) in a case where the matter appears likely to enter such waters, for the purpose of preventing it from doing so ; and
 - (b) in a case where the matter appears to be or to have been present in such waters, for the purpose of removing or disposing of the matter or of remedying or mitigating any pollution caused by its presence in the waters or of restoring the waters (including the fauna and flora in them), so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters;

but nothing in this subsection empowers a water authority to impede or prevent the making of any discharge in pursuance of a consent given by any authority by virtue of section 34 of this Act

- (5) Where a water authority carries out any operations in pursuance of this section the authority shall, subject to the following subsection, be entitled to recover the costs of doing so—
- (a) in the case of operations in pursuance of subsection (1) or (2) of this section, from the persons who made the discharges in question; and
 - (b) in the case of operations in pursuance of the preceding subsection, from any persons who 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 the relevant waters or, as the case may be, to be present in the relevant waters.
- (6) No such costs shall be payable by a person—
- (a) in so far as he satisfies the court in which it is sought to recover the costs that the costs were incurred unnecessarily ; or
 - (b) for any operations in respect of water from an abandoned mine which that person permitted to reach such a place as is mentioned in paragraph (b) of the preceding subsection or to enter relevant waters; or
 - (c) if he is a person to whom compensation is payable by virtue of subsection (3) of this section in respect of a consent to which the operations in question relate.
- (7) In determining the damage which a person has suffered in consequence of pollution in respect of which operations have been or may be carried out in pursuance of this section, account shall be taken of the extent to which it is shown that the damage has been reduced by operations in pursuance of this section and of the extent to which it is shown that the damage is likely to be so reduced.
- (8) In this section—
- "injurious pollution", in relation to a stream, means pollution injurious to the fauna or flora of the stream; and
 - "variation", in relation to a consent, means a modification in pursuance of subsection (1) of section 37 of this Act . of the conditions to which the consent is subject or, in the case of an unconditional consent, the subjection of the consent to conditions in pursuance of that subsection.

47 Duty of water authorities to deal with waste from vessels etc.

- (1) It shall be the duty of each water authority—
- (a) to arrange for the collection and disposal of waste from vessels in its area which appears to the authority to need collection in consequence of the provisions of section 33 of this Act; and
 - (b) to arrange for the provision of facilities for the washing out of prescribed appliances from vessels in its area.
- (2) A water authority may arrange for the provision of facilities by way of water closets, urinals and wash basins for the use of persons from vessels in the authority's area.
- (3) A port health authority shall have power to make arrangements with a water authority for the purposes of any of the preceding provisions of this section.

48 Power of water authorities to exclude unregistered vessels from rivers etc.

- (1) Where it appears to a water authority to be appropriate to do so for the purpose of preventing the pollution of streams in its area, the authority may make byelaws providing that vessels shall not be on any such streams which are specified in the byelaws unless the vessels are registered by the authority in accordance with the byelaws or are exempted by the byelaws from registration; and a person who causes or knowingly permits a vessel to be on a stream in contravention of byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (2) Byelaws made by a water authority in pursuance of the preceding subsection may authorise the authority to make reasonable charges in respect of the registration of vessels in pursuance of the byelaws; and no charges shall be payable, by persons in or from vessels registered by the authority in pursuance of the byelaws, in respect of the use by those persons of facilities provided in pursuance of the preceding section by or by arrangement with the authority.

49 Deposits and vegetation in rivers etc.

- (1) If without the consent of the relevant water authority, which shall not be unreasonably withheld.—
 - (a) a person removes from any part of the channel or bed of a stream a deposit accumulated by reason of any dam, weir or sluice holding back the water of the stream and does so by causing the deposit to be carried away in suspension in the water of the stream ; or
 - (b) any substantial amount of vegetation cut or uprooted in a stream, or so near to the stream that it falls into it, is allowed to remain in the stream by the wilful default of any person,then, subject to the following subsection, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.
- (2) Nothing in paragraph (a) of the preceding subsection applies to anything done in the exercise of statutory powers conferred by or under any enactment relating to land drainage, flood prevention or navigation.
- (3) Regulations may provide that any reference to a stream in subsection (1) of this section shall be construed as including a reference to such controlled waters as are prescribed for the purposes of that subsection.
- (4) Any question as to whether the consent of a water authority in pursuance of subsection (1) of this section is unreasonably withheld shall be determined by the Secretary of State; and any consent given in pursuance of section 4 of the Rivers (Prevention of Pollution) Act 1951 or section 24 of the Rivers (Prevention of Pollution) (Scotland) Act 1951 (which are superseded by this section) shall be treated for the purposes of this section as given in pursuance of this section.

50 Investigation of water pollution problems arising from closures of mines

Each water authority shall have power to carry out studies for the purpose of ascertaining—

- (a) what problems relating to the pollution of relevant waters may arise or have arisen in consequence of the abandonment of any mine in its area or might arise if any such mine were abandoned ; and
- (b) what steps are likely to be appropriate for the purpose of dealing with the problems and what the cost of taking those steps would be.

51 Notice to abstain from certain agricultural practices

- (1) If a water authority is of opinion that any relevant waters—
- (a) have been or are likely to be polluted in consequence of such an act or omission as is first mentioned in section 31(2)(c) of this Act which has occurred at a place in the area of the authority; or
 - (b) are likely to be polluted if such an act or omission occurs at such a place,
- the authority may, by an application in writing made to the Secretary of State which specifies the kind of act or omission in question and the reasons for the opinion, request the Secretary of State to serve on the occupier of the place a notice requesting the occupier to prevent acts or omissions of that kind at the place.

- (2) It shall be the duty of an authority which makes an application in pursuance of the preceding subsection to serve a copy of the application on the Minister of Agriculture, Fisheries and Food and the occupier of the place to which the application relates and to serve on the said occupier a statement informing him that he may, within the period of twenty-eight days beginning with the date on which the statement is served on him, make representations in writing to the Secretary of State about the application.

In the application of this subsection to Scotland the reference to the Minister of Agriculture, Fisheries and Food shall be omitted.

- (3) Where an application is made to the Secretary of State in pursuance of this section it shall be his duty, after considering any representations about the application which are made to him in pursuance of the preceding subsection—
- (a) to serve on the occupier of the place in question the notice requested by the application or a notice containing a request to the occupier which the Secretary of State considers is less restrictive than the request specified in the application or a notice stating that he has rejected the application; and
 - (b) to serve on the authority in question a copy of the notice which the Secretary of State has served in pursuance of the preceding paragraph.
- (4) It shall be the duty of a water authority which is required by virtue of section 41(1) (e) of this Act to maintain a register containing particulars of notices of which copies have been served on the authority in pursuance of the preceding subsection to enter in the register, forthwith after the service on the authority of each such copy other than a copy of a notice of rejection of an application, particulars of the notice and a statement of the date on which it was served on the authority.
- (5) If the Secretary of State considers that a notice served in pursuance of subsection (3) of this section on the occupier of a place should be cancelled he may, after giving notice of his proposal to do so to the water authority on whose application the other notice was served and considering any representations made to him by the authority about the proposal, serve on the occupier of the place a further notice cancelling the other notice at a time specified in the further notice; and where the Secretary of State serves a notice in pursuance of this subsection—
- (a) it shall be his duty to serve a copy of it on the authority aforesaid; and

- (b) it shall be the duty of the authority to enter in the said register a statement that the other notice was or is to be cancelled at the time specified as aforesaid.

52 Charges in respect of certain discharges in England and Wales

- (1) The Secretary of State may, by an order made after consultation with the National Water Council, provide that sections 30 and 31 of the Water Act 1973 (which among other things relate to charges for facilities provided by water authorities and to schemes for the payment of the charges) shall apply to discharges of trade or sewage effluent which are made or authorised to be made by virtue of a consent given in pursuance of this Act or the Public Health (Drainage of Trade Premises) Act 1937 as those sections apply to facilities provided by water authorities; and any such order may—
 - (a) provide that, in the said section 30 as applied by the order, subsection (4) (under which regard is to be had to the cost of providing facilities in fixing charges for the facilities) and references to that subsection shall be omitted; and
 - (b) repeal sections 59(1)(e) and 61(4) of the Public Health Act 1961 (which provide for conditions relating to charges to be attached to consents for discharges which are given in pursuance of the said Act of 1937).
- (2) An order made in pursuance of the preceding subsection—
 - (a) shall include provision for appeals to the Secretary of State in respect of charges payable to a water authority by virtue of that subsection ; and
 - (b) may include provision for the giving by the Secretary of State in consequence of an appeal of directions in respect of the charges to the authority or any other party to the appeal (including directions as to the charges which are to be payable in respect of any period before the determination of the appeal);and the Secretary of State may by order vary or revoke any provisions which by virtue of this subsection or section 104(1)(a) of this Act are contained in an order made in pursuance of this section.
- (3) This section does not apply to Scotland.

53 Charges in respect of certain discharges in Scotland

- (1) The Secretary of State may, by an order made after consultation with such bodies representative of local authorities, river purification authorities, industry and agriculture as he thinks fit, provide that a river purification authority shall have power to fix, and to demand, take and recover, such charges in respect of discharges of trade or sewage effluent which are made or authorised to be made by virtue of a consent given in pursuance of this Act as the river purification authority thinks fit.
- (2) An order made in pursuance of the preceding subsection may include provision—
 - (a) regulating the manner in which the charges are to be imposed;
 - (b) with respect to the criteria by reference to which the charges are to be fixed, the system by which the amount of the charges is to be calculated and the matters to which a river purification authority is to have regard in fixing the charges ;
 - (c) empowering a river purification authority to make different charges in respect of the same kind of discharge in different cases, so however that the charges are such as not to show undue preference to, or discriminate unduly against, any class of persons;

- (d) empowering a river purification authority, if it introduces a new system of charges, to make such transitional charging arrangements as it thinks fit applying for a period not exceeding five years.
- (3) An order made in pursuance of subsection (1) of this section—
 - (a) shall include provision for appeals to the Secretary of State in respect of charges payable to a river purification authority by virtue of the order; and
 - (b) may include provision for the giving by the Secretary of State in consequence of an appeal of directions in respect of the charges to the authority or any other party to the appeal (including directions as to the charges which are to be payable in respect of any period before the determination of the appeal);and the Secretary of State may by order vary or revoke any provisions which by virtue of this subsection or section 104(1)(a) of this Act are contained in an order made in pursuance of this section.
- (4) This section applies to Scotland only.

54 Exclusion of certain liability in respect of discharges etc with consent

Any entry of matter into a stream or controlled waters which—

- (a) is authorised by a consent given in pursuance of this Part of this Act and is in accordance with the conditions (if any) to which the consent is subject; or
- (b) is a consequence of an act which is so authorised and in accordance with such conditions;

shall not constitute an offence under section 8 of the Salmon and Freshwater Fisheries Act 1923 or section 68 of the Public Health Act 1875.

Supplemental

55 Discharges by water authorities

- (1) This Part of this Act shall have effect with prescribed modifications in relation to discharges by a water authority in its area.
- (2) Without prejudice to the generality of the power to make regulations conferred by the preceding subsection, any regulations made in pursuance of that subsection may provide for consents required by water authorities for the purposes of this Part of this Act as modified by virtue of that subsection to be or be deemed to be given by the Secretary of State.
- (3) In the application of this section to Scotland, for the references to a water authority there shall be substituted references to an islands council.

56 Interpretation etc of Part II

- (1) Except where the context otherwise requires, in this Part of this Act—
 - " controlled waters " means the sea within three nautical miles from any point on the coast measured from low-water mark of ordinary spring tides, such other parts of the territorial sea adjacent to Great Britain as are prescribed and any other tidal waters in Great Britain ;

Status: This is the original version (as it was originally enacted).

" relevant waters " has the meaning assigned to it by section 31(1)(a) of this Act;

" restricted waters " means controlled waters in—

- (a) areas designated by regulations as tidal rivers for the purposes of this definition; and
- (b) other areas of a kind prescribed for the purposes of this definition as areas in which, in the opinion of the Secretary of State, vessels commonly lie at moorings in close proximity to one another;

" sewage effluent " includes any effluent from the sewage disposal or sewerage works of a water authority ;

" specified underground water " means underground water in the area of a water authority which is specified, as water which is used or is expected by the authority to be used for any purpose, in a document which is in a form prescribed for the purposes of this definition and contains prescribed particulars and of which a copy is kept available, and has for not less than one month been kept available, at the principal office of the authority for inspection by the public free of charge during office hours;

" stream " includes any river, watercourse or inland water, whether the river, watercourse or inland water is natural or artificial or above or below ground, except—

- (a) subject to subsection (3) of this section, any lake, loch or pond which does not discharge into a stream;
- (b) any sewer vested in a water authority; and
- (c) any tidal waters ;

and any reference to a stream includes a reference to the channel or bed of a stream which is for the time being dry; and

" tidal waters " includes the waters of any enclosed dock which adjoins tidal waters.

(2) In the application of the preceding subsection to Scotland—

- (a) in the definitions of " sewage effluent" and " stream " the references to a water authority shall be construed as references to a local authority within the meaning of the Sewerage (Scotland) Act 1968 ;
- (b) for the definition of " specified underground water " there shall be substituted the following definition—

“" specified underground water " means such underground water as may be prescribed.”

(3) Regulations may provide that any prescribed lake, loch or pond which does not discharge into a stream, or that any lake, loch or pond of a prescribed description which does not discharge into a stream, shall be a stream for the purposes of this Part of this Act.

(4) For the purposes of this Part of this Act the area of a water authority shall include all controlled waters off the coast of the area which is the authority's area apart from this subsection ; and any question as to whether any place is included in the area of a water authority by virtue of this subsection shall be determined by the Secretary of State.

(5) For the purposes of this Part of this Act a notice imposing conditions with respect to discharges which was given by an authority in pursuance of—

- (a) section 7(4) of the Rivers (Prevention of Pollution) Act 1951; or

Status: This is the original version (as it was originally enacted).

- (b) section 28(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951 ; or
 - (c) section 1(5) of the Rivers (Prevention of Pollution) Act 1961 ; or
 - (d) section 1(5) of the Rivers (Prevention of Pollution) (Scotland) Act 1965,
- shall be treated as having given the authority's consent in pursuance of the Act in question for those discharges subject to those conditions.
- (6) Section 30(5) of this Act shall have effect in relation to this Part of this Act as if for any reference to Part I of this Act there were substituted a reference to this Part of this Act.