



Control of Pollution Act 1974

1974 CHAPTER 40

PART VI

MISCELLANEOUS AND GENERAL

General

104 Orders and regulations.

- (1) Any power conferred by this Act ^{F1}... to make an order or regulations—
- (a) includes power to make different provision by the order or regulations for different circumstances and to include in the order or regulations such incidental, supplemental and transitional provisions as the person making the order or regulations considers appropriate in connection with the order or regulations; and
 - (b) shall be exercisable by statutory instrument except in the case of the powers conferred by section 97 of this Act;
- and any statutory instrument made by virtue of this subsection, except an instrument containing only [^{F2}regulations made by virtue of section 18 of this Act or] an order made by virtue of [^{F3}section 33(4), 44(5), 52, 53 or 109(2)] [^{F3}section 44(5) or 109(2)] of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) No [^{F4}regulations shall be made by virtue of section 18 of this Act and no] order shall be made by virtue of section 52 [^{F5}or 53] of this Act unless a draft of the [^{F6}regulations or] order has been approved by a resolution of each House of Parliament.
- [^{F7}(3) It shall be the duty of the Secretary of State, before he makes any regulations in pursuance of section 31(5) of this Act—
- (a) to publish in the London Gazette and in at least one newspaper circulating in the area in question a copy of the proposed regulations and a notice specifying—

Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Section 104. (See end of Document for details)

- (i) A period of not less than twenty-eight days, beginning with the date on which the notice is first published, within which objections to the proposed regulations may be made, and
- (ii) the person to whom such objections may be made; and
- (b) to consider any objections to the proposed regulations which are made within that period and, if such an objection is so made by a prescribed person and is not withdrawn, to cause a local inquiry to be held in pursuance of section 96 of this Act with respect to the proposed regulations;

and the Secretary of State may, after considering any such objections as are mentioned in paragraph (b) of this subsection and the report of any person appointed to hold a local inquiry with respect to the proposed regulations, make the regulations either in the form in which a copy of them was published in pursuance of this subsection or in that form with such modifications as he considers appropriate.]

Textual Amendments

- F1** Words in s. 104(1) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 16\(9\)\(a\)\(i\)](#); S.S.I. 2014/160, art. 2(1)(2), Sch.
- Words in s. 104(1) omitted (E.W.) (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 13 para. 15\(2\)](#); S.I. 2015/1732, art. 2(f)
- F2** Words in s. 104(1) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 16\(9\)\(a\)\(ii\)](#); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F3** Words in s. 104(1) substituted (S.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 168, 189(4)–(10), 190, 193(1), Sch. 23 para. 7, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), [58](#)
- F4** Words in s. 104(2) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 16\(9\)\(b\)\(i\)](#); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F5** Words repealed (S.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)
- F6** Words in s. 104(2) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 16\(9\)\(b\)\(ii\)](#); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F7** S. 104(3) repealed (S.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

Changes to legislation:

There are currently no known outstanding effects for the Control of Pollution Act 1974, Section 104.