Environmental Protection Act 1990

1990 CHAPTER 43

Thomson Reuters (Legal) Limited.

UK Statutes Crown Copyright. Reproduced by permission of the Controller of Her Majesty's Stationery Office.

An Act to make provision for the improved control of pollution arising from certain industrial and other processes; to re-enact the provisions of the Control of Pollution Act 1974 relating to waste on land with modifications as respects the functions of the regulatory and other authorities concerned in the collection and disposal of waste and to make further provision in relation to such waste; to restate the law defining statutory nuisances and improve the summary procedures for dealing with them, to provide for the termination of the existing controls over offensive trades or businesses and to provide for the extension of the Clean Air Acts to prescribed gases; to amend the law relating to litter and make further provision imposing or conferring powers to impose duties to keep public places clear of litter and clean; to make provision conferring powers in relation to trolleys abandoned on land in the open air; to amend the Radioactive Substances Act 1960; to make provision for the control of genetically modified organisms; to make provision for the abolition of the Nature Conservancy Council and for the creation of councils to replace it and discharge the functions of that Council and, as respects Wales, of the Countryside Commission; to make further provision for the control of the importation, exportation, use, supply or storage of prescribed substances and articles and the importation or exportation of prescribed descriptions of waste; to confer powers to obtain information about potentially hazardous substances; to amend the law relating to the control of hazardous substances on, over or under land; to amend section 107(6) of the Water Act 1989 and sections 31(7)(a), 31A(2)(c)(i) and 32(7)(a) of the Control of Pollution Act 1974; to amend the provisions of the Food and Environment Protection Act 1985 as regards the dumping of waste at sea; to make further provision as respects the prevention of oil pollution from ships; to make provision for and in connection with the identification and control of dogs; to confer powers to control the burning of crop residues; to make provision in relation to financial or other assistance for purposes connected with the environment; to make provision as respects superannuation of employees of the Groundwork Foundation and for remunerating the chairman of the Inland Waterways Amenity Advisory Council; and for purposes connected with those purposes.

[1st November 1990]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent

Preamble: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART I

INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

Preliminary

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

1.— Preliminary.

(1) The following provisions have effect for the interpretation of this Part.

(2) The "environment" consists of all, or any, of the following media, namely, the air, water and land; and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground.

(3) "Pollution of the environment" means pollution of the environment due to the release (into any environmental medium) from any process of substances which are capable of causing harm to man or any other living organisms supported by the environment.

(4) "Harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes offence caused to any of his senses or harm to his property; and "harmless" has a corresponding meaning.

(5) "Process" means any activities carried on in Great Britain, whether on premises or by means of mobile plant, which are capable of causing pollution of the environment and "prescribed process" means a process prescribed under section 2(1) below.

(6) For the purposes of subsection (5) above—

"activities" means industrial or commercial activities or activities of any other nature whatsoever (including, with or without other activities, the keeping of a substance);

"Great Britain" includes so much of the adjacent territorial sea as is, or is treated as, relevant territorial waters for the purposes of **[** Part III of the Water Resources Act 1991 **]** [1] or, as respects Scotland, Part II of the Control of Pollution Act 1974; and

"mobile plant" means plant which is designed to move or to be moved whether on roads or otherwise.

(7) The "enforcing authority", in relation to England and Wales, is **[** the Environment Agency or the local authority by which **]** [2] , under section 4 below, the functions conferred or imposed by this Part otherwise than on the Secretary of State are for the time being exercisable in relation respectively to releases of substances into the environment or into the air; and "local enforcing authority" means any such local authority.

[(8) In relation to Scotland, references to the "enforcing authority" and a "local enforcing authority" are references to the Scottish Environment Protection Agency (in this Part referred to as "SEPA"). **]** [3]

(9) "Authorisation" means an authorisation for a process (whether on premises or by means of mobile plant) granted under section 6 below; and a reference to the conditions of an authorisation is a reference to the conditions subject to which at any time the authorisation has effect.

(10) A substance is "released" into any environmental medium whenever it is released directly into that medium whether it is released into it within or outside Great Britain and "release" includes—

(a) in relation to air, any emission of the substance into the air;

(b) in relation to water, any entry (including any discharge) of the substance into water;

(c) in relation to land, any deposit, keeping or disposal of the substance in or on land;

and for this purpose "water" and "land" shall be construed in accordance with subsections (11) and (12) below.

(11) For the purpose of determining into what medium a substance is released—

(a) any release into—

(i) the sea or the surface of the seabed,

(ii) any river, watercourse, lake, loch or pond (whether natural or artificial or above or below ground) or reservoir or the surface of the riverbed or of other land supporting such waters, or

(iii) ground waters,

is a release into water;

(b) any release into—

(i) land covered by water falling outside paragraph (a) above or the water covering such land; or

(ii) the land beneath the surface of the seabed or of other land supporting waters falling within paragraph (a)(ii) above,

is a release into land; and

(c) any release into a sewer (within the meaning of **[** the Water Industry Act 1991 **]** [4] or, in relation to Scotland, of the Sewerage (Scotland) Act 1968) shall be treated as a release into water;

but a sewer and its contents shall be disregarded in determining whether there is pollution of the environment at any time.

(12) In subsection (11) above "ground waters" means any waters contained in underground strata, or in—

(a) 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

(b) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(13) "Substance" shall be treated as including electricity or heat and "prescribed substance" has the meaning given by section 2(7) below.

[(14) In this Part "the appropriate Agency" means —

(a) in relation to England and Wales, the Environment Agency; and

(b) in relation to Scotland, SEPA.

] [5]

Notes

1 Words substituted by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.1 para.56(1)(a) (December 1, 1991: represents law in force as at date shown)

2 Words substituted by Environment Act 1995 c. 25 Sch.22 para.45(2) (April 1, 1996)

3 Substituted by Environment Act 1995 c. 25 Sch.22 para.45(3) (April 1, 1996)

4 Words substituted by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.1 para.56(1)(b) (December 1, 1991: represents law in force as at date shown)

5 Added by Environment Act 1995 c. 25 Sch.22 para.45(4) (April 1, 1996)

Scotland

[…][1]

Notes

1 Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 1: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 1: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 1(1)-(14)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

2.— Prescribed processes and prescribed substances.

(1) The Secretary of State may, by regulations, prescribe any description of process as a process for the carrying on of which after a prescribed date an authorisation is required under section 6 below.

(2) Regulations under subsection (1) above may frame the description of a process by reference to any characteristics of the process or the area or other circumstances in which the process is carried on or the description of person carrying it on.

(3) Regulations under subsection (1) above may prescribe or provide for the determination under the regulations of different dates for different descriptions of persons and may include such transitional provisions as the Secretary of State considers necessary or expedient as respects the making of applications for authorisations and suspending the application of section 6(1) below until the determination of applications made within the period allowed by the regulations.

(4) Regulations under subsection (1) above shall, as respects each description of process, designate it as one for central control or one for local control.

(5) The Secretary of State may, by regulations, prescribe any description of substance as a substance the release of which into the environment is subject to control under sections 6 and 7 below.

(6) Regulations under subsection (5) above may—

(a) prescribe separately, for each environmental medium, the substances the release of which into that medium is to be subject to control; and

(b) provide that a description of substance is only prescribed, for any environmental medium, so far as it is released into that medium in such amounts over such periods, in such concentrations or in such other circumstances as may be specified in the regulations;

and in relation to a substance of a description which is prescribed for releases into the air, the regulations may designate the substance as one for central control or one for local control.

(7) In this Part "prescribed substance" means any substance of a description prescribed in regulations under subsection (5) above or, in the case of a substance of a description prescribed only for releases in circumstances specified under subsection (6)(b) above, means any substance of that description which is released in those circumstances.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 2: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 2: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 2(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

3.— Emission etc. limits and quality objectives.

(1) The Secretary of State may make regulations under subsection (2) or (4) below establishing standards, objectives or requirements in relation to particular prescribed processes or particular substances.

(2) Regulations under this subsection may—

(a) in relation to releases of any substance from prescribed processes into any environmental medium, prescribe standard limits for—

(i) the concentration, the amount or the amount in any period of that substance which may be so released; and

(ii) any other characteristic of that substance in any circumstances in which it may be so released;

(b) prescribe standard requirements for the measurement or analysis of, or of releases of, substances for which limits have been set under paragraph (a) above; and

(c) in relation to any prescribed process, prescribe standards or requirements as to any aspect of the process.

(3) Regulations under subsection (2) above may make different provision in relation to different cases, including different provision in relation to different processes, descriptions of person, localities or other circumstances.

(4) Regulations under this subsection may establish for any environmental medium (in all areas or in specified areas) quality objectives or quality standards in relation to any substances which may be released into that or any other medium from any process.

(5) The Secretary of State may make plans for—

(a) establishing limits for the total amount, or the total amount in any period, of any substance which may be released into the environment in, or in any area within, the United Kingdom;
(b) allocating quotas as respects the release of substances to persons carrying on processes in respect of which any such limit is established;
(c) establishing limits of the descriptions specified in subsection (2)(a) above so as progressively to reduce pollution of the environment;
(d) the progressive improvement in the quality objectives and quality standards established by regulations under subsection (4) above;

and the Secretary of State may, from time to time, revise any plan so made.

(6) Regulations or plans under this section may be made for any purposes of this Part or for other purposes.

(7) The Secretary of State shall give notice in the London, Edinburgh and Belfast Gazettes of the making and the revision of any plan under subsection (5) above and shall make the documents containing the plan, or the plan as so revised, available for inspection by members of the public at the places specified in the notice.

(8) **[…]**[1]

Notes

[1] Repealed by Northern Ireland Act 1998 c. 47 Sch.15 para.1 (December 2, 1999: repeal has effect as SI 1999/3209 subject to savings and transitional provisions specified in 1998 c.47 Sch.14 paras 21-23)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 3: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Pt I s. 3(5): repealed by Environment (Northern Ireland) Order 2002/3153 Sch. 6(I) para. 1 (date to be appointed)

Pt I s. 3(6): repealed by Environment (Northern Ireland) Order 2002/3153 Sch. 6(I) para. 1 (date to be appointed)

Pt I s. 3(7): repealed by Environment (Northern Ireland) Order 2002/3153 Sch. 6(I) para. 1 (date to be appointed)

Commencement

Pt I s. 3: December 19, 1990 (SI 1990/2635 art. 2)

Extent

Pt I s. 3(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

4.— Discharge and scope of functions.

(1) This section determines the authority by whom the functions conferred or imposed by this Part otherwise than on the Secretary of State are exercisable and the purposes for which they are exercisable.

(2) Those functions, in their application to prescribed processes designated for central control, shall be functions of **[** the appropriate Agency **]** [1] , and shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into any environmental medium.

(3) Subject to subsection (4) below, those functions, in their application to prescribed processes designated for local control, shall be functions of—

[(a) in the case of a prescribed process carried on (or to be carried on) by means of a mobile plant, where the person carrying on the process has his principal place of business—

(i) in England and Wales, the local authority in whose area that place of business is;

(ii) in Scotland, SEPA;

(b) in any other cases, where the prescribed processes are (or are to be) carried on—

(i) in England and Wales, the local authority in whose area they are (or are to be) carried on;

(ii) in Scotland, SEPA;

] [2]

and the functions applicable to such processes shall be exercisable for the purpose of preventing or minimising pollution of the environment due to the release of substances into the air (but not into any other environmental medium).

(4) The Secretary of State may, as respects the functions under this Part being exercised by a local authority specified in the direction, direct that those functions shall be exercised instead by **[** the Environment Agency **]** [3] while the direction remains in force or during a period specified in the direction.

[(4A) In England and Wales, a local authority, in exercising the functions conferred or imposed on it under this Part by virtue of subsection (3) above, shall have regard to the strategy for the time being published pursuant to section 80 of the Environment Act 1995. **]** [4]

(5) A transfer of functions under subsection (4) above to **[** the Environment Agency **]** [5] does not make them exercisable by **[** that Agency **]** [6] for the purpose of preventing or minimising pollution of the environment due to releases of substances into any other environmental medium than the air.

(6) A direction under subsection (4) above may transfer those functions as exercisable in relation to all or any description of prescribed processes carried on by all or any description of persons (a "general direction") or in relation to a prescribed process carried on by a specified person (a "specific direction").

(7) A direction under subsection (4) above may include such saving and transitional provisions as the Secretary of State considers necessary or expedient.

(8) The Secretary of State, on giving or withdrawing a direction under subsection (4) above, shall—

(a) in the case of a general direction—

(i) forthwith serve notice of it on **[** the Environment Agency **]** [7] and on the local enforcing authorities affected by the direction; and

(ii) cause notice of it to be published as soon as practicable in the London Gazette **[…]**[8] and in at least one newspaper circulating in the area of each authority affected by the direction;

(b) in the case of a specific direction—

(i) forthwith serve notice of it on **[** the Environment Agency **]** [7] , the local enforcing authority and the person carrying on or appearing to the Secretary of State to be carrying on the process affected, and

(ii) cause notice of it to be published as soon as practicable in the London Gazette **[…]**[8] and in at least one newspaper circulating in the authority's area;

and any such notice shall specify the date at which the direction is to take (or took) effect and (where appropriate) its duration.

[(8A) The requirements of sub-paragraph (ii) of paragraph (a) or, as the case may be, of paragraph (b) of subsection (8) above shall not apply in any case where, in the opinion of the Secretary of State, the publication of notice in accordance with that sub-paragraph would be contrary to the interests of national security.

(8B) Subsections (4) to (8A) above shall not apply to Scotland. **]** [9]

[(9) It shall be the duty of local authorities to follow such developments in technology and techniques for preventing or reducing pollution of the environment due to releases of substances from prescribed processes as concern releases into the air of substances from prescribed processes designated for local control. **]** [10]

(10) It shall be the duty of **[** the Environment Agency, SEPA **]** [11] and the local enforcing authorities to give effect to any directions given to them under any provision of this Part.

(11) In this Part "local authority" means, subject to subsection (12) below—

(a) in Greater London, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;

(b) **[** in England **]** [12] outside Greater London, a district council and the Council of the Isles of Scilly; **[…]**[13]

[(bb) in Wales, a county council or county borough council;. **]** [14]

(c) **[…]**[13]

(12) Where, by an order under section 2 of the Public Health (Control of Disease) Act 1984, a port health authority has been constituted for any port health district, the port health authority shall have by virtue of this subsection, as respects its district, the functions conferred or imposed by this Part

and no such order shall be made assigning those functions; and "local authority" and "area" shall be construed accordingly.

Notes

1 Words substituted by Environment Act 1995 c. 25 Sch.22 para.46(2) (April 1, 1996)
2 Substituted by Environment Act 1995 c. 25 Sch.22 para.46(3) (April 1, 1996)
3 Words substituted by Environment Act 1995 c. 25 Sch.22 para.46(4) (April 1, 1996)
4 Added by Environment Act 1995 c. 25 Sch.22 para.46(5) (December 23, 1997)
5 Words substituted by Environment Act 1995 c. 25 Sch.22 para.46(6)(a) (April 1, 1996)
6 Words substituted by Environment Act 1995 c. 25 Sch.22 para.46(6)(b) (April 1, 1996)
7 Words substituted by Environment Act 1995 c. 25 Sch.22 para.46(7)(a) (April 1, 1996)
8 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)
9 Added by Environment Act 1995 c. 25 Sch.22 para.46(8) (April 1, 1996)
10 Substituted by Environment Act 1995 c. 25 Sch.22 para.46(9) (April 1, 1996)
11 Words substituted by Environment Act 1995 c. 25 Sch.22 para.46(10) (April 1, 1996)
12 Words inserted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(1) (April 1, 1996 for the purpose specified in SI 1996/396 Sch.1; not yet in force otherwise)
13 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)
14 Added by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(1) (April 1, 1996 for the purpose specified in SI 1996/396 Sch.1; not yet in force otherwise)

Scotland

[...][1]

Notes

1 Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 4: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 4: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 4(1)-(12): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

5.— [...][1]

Notes

1 Repealed by Environment Act 1995 c. 25 Sch.22 para.47 (April 1, 1996)

Authorisations

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed With Amendments Pending

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

England and Wales

[6.— Authorisations: general provisions.

(1) No person shall carry on a prescribed process after the date prescribed or determined for that description of process by or under regulations under section 2(1) above (but subject to any transitional provision made by the regulations) except under an authorisation granted by the enforcing authority and in accordance with the conditions to which it is subject.

(2) An application for an authorisation shall be made to the enforcing authority in accordance with Part I of Schedule 1 to this Act and shall be accompanied by

(a) in a case where, by virtue of section 41 of the Environment Act 1995, a charge prescribed by a charging scheme under that section is required to be paid to the appropriate Agency in respect of the application, the charge so prescribed; or

(b) in any other case,

the fee prescribed under section 8(2)(a) below.

(3) Where an application is duly made to the enforcing authority, the authority shall either grant the authorisation subject to the conditions required or authorised to be imposed by section 7 below or refuse the application.

(4) An application shall not be granted unless the enforcing authority considers that the applicant will be able to carry on the process so as to comply with the conditions which would be included in the authorisation.

(5) The Secretary of State may, if he thinks fit in relation to any application for an authorisation, give to the enforcing authority directions as to whether or not the authority should grant the authorisation.

(6) Subject to subsection (6A) below, the enforcing authority shall, as respects each authorisation in respect of which it has functions under this Part, from time to time but not less frequently than once in every period of four years, carry out a review of the conditions of the authorisation.

(6A) Subsection (6) above shall not require a review of the conditions of an authorisation to be carried out if—

(a) the prescribed process covered by the authorisation is carried on in a new Part A installation or by means of a new Part A mobile plant;

(b) the prescribed process covered by the authorisation is carried on in an existing Part A installation or by means of an existing Part A mobile plant and the review would be carried out within the period of two years ending at the beginning of the relevant period for that installation or mobile plant; or

(c) the prescribed process covered by the authorisation is carried on in an existing Part B installation or by means of an existing Part B mobile plant and the review would be carried out within the period of two years ending on the relevant date for that installation or mobile plant.

(6B) In subsection (6A) above, “new Part A installation” , “existing Part A installation” , “new Part A mobile plant” , “existing Part B mobile plant” , “relevant period” , “existing Part B installation” , “existing Part B mobile plant” and “relevant date” have the meaning given in Schedule 3 to the Pollution Prevention and Control (England and Wales) Regulations 2000.

(7) The Secretary of State may, by regulations, substitute for the period for the time being specified in subsection (6) above such other period as he thinks fit.

(8) Schedule 1 to this Act (supplementary provisions) shall have effect in relation to authorisations. **]** [1]

Notes

[1] Amended by Pollution Prevention and Control (England and Wales) Regulations 2000/1973 Sch.10(1) para.3 (August 1, 2000)

Amendments Pending

Pt I s. 6: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 6: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 6(1)-(6A)(c), (6B)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt I s. 6(6A)(d): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

7.— Conditions of authorisations.

(1) There shall be included in an authorisation—

(a) subject to paragraph (b) below, such specific conditions as the enforcing authority considers appropriate, when taken with the general condition implied by subsection (4) below, for achieving the objectives specified in subsection (2) below;

(b) such conditions as are specified in directions given by the Secretary of State under subsection (3) below; and

(c) such other conditions (if any) as appear to the enforcing authority to be appropriate;

but no conditions shall be imposed for the purpose only of securing the health of persons at work (within the meaning of Part I of the Health and Safety at Work etc. Act 1974).

(2) Those objectives are—

(a) ensuring that, in carrying on a prescribed process, the best available techniques not entailing excessive cost will be used—

(i) for preventing the release of substances prescribed for any environmental medium into that medium or, where that is not practicable by such means, for reducing the release of such substances to a minimum and for rendering harmless any such substances which are so released; and

(ii) for rendering harmless any other substances which might cause harm if released into any environmental medium;

(b) compliance with any directions by the Secretary of State given for the implementation of any **[** retained EU obligations **]** [1] or international law relating to environmental protection;

(c) compliance with any limits or requirements and achievement of any quality standards or quality objectives prescribed by the Secretary of State under any of the relevant enactments;

(d) compliance with any requirements applicable to the grant of authorisations specified by or under a plan made by the Secretary of State under section 3(5) above.

(3) Except as respects the general condition implied by subsection (4) below, the Secretary of State may give directions to the enforcing authorities as to the conditions which are, or are not, to be included in all authorisations, in authorisations of any specified description or in any particular authorisation.

(4) Subject to subsections (5) and (6) below, there is implied in every authorisation a general condition that, in carrying on the process to which the authorisation applies, the person carrying it on must use the best available techniques not entailing excessive cost—

(a) for preventing the release of substances prescribed for any environmental medium into that medium or, where that is not practicable by such means, for reducing the release of

such substances to a minimum and for rendering harmless any such substances which are so released; and

(b) for rendering harmless any other substances which might cause harm if released into any environmental medium.

(5) In the application of subsections (1) to (4) above to authorisations granted by a local enforcing authority references to the release of substances into any environmental medium are to be read as references to the release of substances into the air.

(6) The obligation implied by virtue of subsection (4) above shall not apply in relation to any aspect of the process in question which is regulated by a condition imposed under subsection (1) above.

(7) The objectives referred to in subsection (2) above shall, where the process—

(a) is one designated for central control; and

(b) is likely to involve the release of substances into more than one environmental medium;

include the objective of ensuring that the best available techniques not entailing excessive cost will be used for minimising the pollution which may be caused to the environment taken as a whole by the releases having regard to the best practicable environmental option available as respects the substances which may be released.

(8) An authorisation for carrying on a prescribed process may, without prejudice to the generality of subsection (1) above, include conditions—

(a) imposing limits on the amount or composition of any substance produced by or utilised in the process in any period; and

(b) requiring advance notification of any proposed change in the manner of carrying on the process.

(9) This section has effect subject to section 28 below **[…]**[2] .

(10) References to the best available techniques not entailing excessive cost, in relation to a process, include (in addition to references to any technical means and technology) references to the number, qualifications, training and supervision of persons employed in the process and the design, construction, lay-out and maintenance of the buildings in which it is carried on.

(11) It shall be the duty of enforcing authorities to have regard to any guidance issued to them by the Secretary of State for the purposes of the application of subsections (2) and (7) above as to the techniques and environmental options that are appropriate for any description of prescribed process.

(12) In subsection (2) above "the relevant enactments" are any enactments or instruments contained in or made for the time being under—

(a) section 2 of the Clean Air Act 1968;

[(b) retained EU law; **]** [3]

(c) Part I of the Health and Safety at Work etc. Act 1974;

(d) Parts II, III or IV of the Control of Pollution Act 1974;

[(e) the Water Resources Act 1991 ; **[…]**[5] **]** [4]

(f) section 3 of this Act **[** ; **[…]**[5] **]** [6]

[(g) section 87 of the Environment Act 1995 **[** ; and **]** [5] **]** [6]

[(h) Part 1 of the Water Environment and Water Services (Scotland) Act 2003 (asp 3). **]** [5]

Notes

1 Words substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(2)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Words repealed by Environment Act 1995 c. 25 Sch.22 para.49(1) (April 1, 1996)

3 Substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(2)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

4 Substituted by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.1 para.56(2) (December 1, 1991: represents law in force as at date shown)

5 Added by Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006/181 (Scottish SI) Sch.1(IV) para.5(2)(b) (April 1, 2006)

6 Added by Environment Act 1995 c. 25 Sch.22 para.49(2) (April 1, 1996)

Scotland

[...][1]

Notes

1 Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 7: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 7: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 7(1)-(12)(g): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt I s. 7(12)(h): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

8.— Fees and charges for authorisations.

(1) There shall be charged by and paid to the **[** local enforcing authority **]** [1] such fees and charges as may be prescribed from time to time by a scheme under subsection (2) below (whether by being specified in or made calculable under the scheme).

(2) The Secretary of State may, with the approval of the Treasury, make, and from time to time revise, a scheme prescribing—

(a) fees payable in respect of applications for authorisations;

(b) fees payable by persons holding authorisations in respect of, or of applications for, the variation of authorisations; and

(c) charges payable by such persons in respect of the subsistence of their authorisations.

(3) The Secretary of State shall, on making or revising a scheme under subsection (2) above, lay a copy of the scheme or of the alterations made in the scheme or, if he considers it more appropriate, the scheme as revised, before each House of Parliament.

(4) **[…]**[2]

(5) A scheme under subsection (2) above may, in particular—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;

(b) allow for reduced fees or charges to be payable in respect of authorisations for a number of prescribed processes carried on by the same person;

(c) provide for the times at which and the manner in which the payments required by the scheme are to be made; and

(d) make such incidental, supplementary and transitional provision as appears to the Secretary of State to be appropriate.

(6) The Secretary of State, in framing a scheme under subsection (2) above, shall, so far as practicable, secure that the fees and charges payable under the scheme are sufficient, taking one financial year with another, to cover the relevant expenditure attributable to authorisations.

(7) The "relevant expenditure attributable to authorisations" is the expenditure incurred by the **[** local enforcing authorities **]** [3] in exercising their functions under this Part in relation to authorisations **[** together with the expenditure incurred by the Environment Agency in exercising, in relation to authorisations granted by local enforcing authorities or the prescribed processes to which such authorisations relate, such of its functions as are specified in the scheme **]** [4] **[…]**[5] .

(8) If it appears to the **[** local enforcing authority **]** [6] that the holder of an authorisation has failed to pay a charge due in consideration of the subsistence of the authorisation, it may, by notice in writing served on the holder, revoke the authorisation.

(9) **[…]**[2]

[(10) The foregoing provisions of this section shall not apply to Scotland. **]** [7]

Notes

1 Words substituted by Environment Act 1995 c. 25 Sch.22 para.50(2) (April 1, 1996)

2 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

3 Words substituted by Environment Act 1995 c. 25 Sch.22 para.50(4)(a) (April 1, 1996)

4 Words inserted by Pollution Prevention and Control Act 1999 c. 24 Sch.2 para.4 (March 21, 2000 as SI 2000/800)

5 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

[6] Words substituted by Environment Act 1995 c. 25 Sch.22 para.50(5) (April 1, 1996)

[7] S.8(10) substituted for s.8(10) and (11) by Environment Act 1995 c. 25 Sch.22 para.50(7) (April 1, 1996)

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 8: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 8: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 8(1)-(6), (8), (10)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt I s. 8(7), (9): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

9.— Transfer of authorisations.

(1) An authorisation for the carrying on of any prescribed process may be transferred by the holder to a person who proposes to carry on the process in the holder's place.

(2) Where an authorisation is transferred under this section, the person to whom it is transferred shall notify the enforcing authority in writing of that fact not later than the end of the period of twenty-one days beginning with the date of the transfer.

(3) An authorisation which is transferred under this section shall have effect on and after the date of the transfer as if it had been granted to that person under section 6 above, subject to the same conditions as were attached to it immediately before that date.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 9: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 9: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 9(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

10.— Variation of authorisations by enforcing authority.

(1) The enforcing authority may at any time, subject to the requirements of section 7 above, and, in cases to which they apply, the requirements of Part II of Schedule 1 to this Act, vary an authorisation and shall do so if it appears to the authority at that time that that section requires conditions to be included which are different from the subsisting conditions.

(2) Where the enforcing authority has decided to vary an authorisation under subsection (1) above the authority shall notify the holder of the authorisation and serve a variation notice on him.

(3) In this Part a "variation notice" is a notice served by the enforcing authority on the holder of an authorisation—

(a) specifying variations of the authorisation which the enforcing authority has decided to make; and

(b) specifying the date or dates on which the variations are to take effect;

and, unless the notice is withdrawn **[** or is varied under subsection (3A) below **]**[1] , the variations specified in a variation notice shall take effect on the date or dates so specified .

[(3A) An enforcing authority which has served a variation notice may vary that notice by serving on the holder of the authorisation in question a further notice—

(a) specifying the variations which the enforcing authority has decided to make to the variation notice; and

(b) specifying the date or dates on which the variations specified in the variation notice, as varied by the further notice, are to take effect;

and any reference in this Part to a variation notice, or to a variation notice served under subsection (2) above, includes a reference to such a notice as varied by a further notice served under this subsection.

] [2]

(4) A variation notice served under subsection (2) above shall also—

(a) require the holder of the authorisation, within such period as may be specified in the notice, to notify the authority what action (if any) he proposes to take to ensure that the process is carried on in accordance with the authorisation as varied by the notice; and

[(b) require the holder to pay, within such period as may be specified in the notice,—

(i) in a case where the enforcing authority is the Environment Agency or SEPA, the charge (if any) prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995; or

(ii) in any other case, the fee (if any) prescribed by a scheme under section 8 above.

] [3]

(5) Where in the opinion of the enforcing authority any action to be taken by the holder of an authorisation in consequence of a variation notice served under subsection (2) above will involve a substantial change in the manner in which the process is being carried on, the enforcing authority shall notify the holder of its opinion.

(6) The Secretary of State may, if he thinks fit in relation to authorisations of any description or particular authorisations, direct the enforcing authorities—

(a) to exercise their powers under this section, or to do so in such circumstances as may be specified in the directions, in such manner as may be so specified; or

(b) not to exercise those powers, or not to do so in such circumstances or such manner as may be so specified;

and the Secretary of State shall have the corresponding power of direction in respect of the powers of the enforcing authorities to vary authorisations under section 11 below.

(7) In this section and section 11 below a “substantial change”, in relation to a prescribed process being carried on under an authorisation, means a substantial change in the substances released from the process or in the amount or any other characteristic of any substance so released; and the Secretary of State may give directions to the enforcing authorities as to what does or does not constitute a substantial change in relation to processes generally, any description of process or any particular process.

(8) In this section and section 11 below—

“prescribed” means prescribed in regulations made by the Secretary of State;

[“vary”

(a) in relation to the subsisting conditions or other provisions of an authorisation, means adding them or varying or rescinding any of them; and

(b) in relation to a variation notice, means adding to, or varying or rescinding the notice or any of its contents;

] [4]

and "variation" shall be construed accordingly.

Notes

1 Words inserted by Environment Act 1995 c. 25 Sch.22 para.51(2) (October 12, 1995)

2 Added by Environment Act 1995 c. 25 Sch.22 para.51(3) (October 12, 1995)

3 Substituted by Environment Act 1995 c. 25 Sch.22 para.51(4) (April 1, 1996)

4 Added by Environment Act 1995 c. 25 Sch.22 para.51(5) (October 12, 1995)

Scotland

[…][1]

Notes

1 Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 10: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 10: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 10(1)-(8) definition of "vary" (b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

11.— Variation of conditions etc: applications by holders of authorisations.

(1) A person carrying on a prescribed process under an authorisation who wishes to make a relevant change in the process may at any time—

(a) notify the enforcing authority in the prescribed form of that fact, and

(b) request the enforcing authority to make a determination, in relation to the proposed change, of the matters mentioned in subsection (2) below;

and a person making a request under paragraph (b) above shall furnish the enforcing authority with such information as may be prescribed or as the authority may by notice require.

(2) On receiving a request under subsection (1) above the enforcing authority shall determine—

(a) whether the proposed change would involve a breach of any condition of the authorisation;

(b) if it would not involve such a breach, whether the authority would be likely to vary the conditions of the authorisation as a result of the change;

(c) if it would involve such a breach, whether the authority would consider varying the conditions of the authorisation so that the change may be made; and

(d) whether the change would involve a substantial change in the manner in which the process is being carried on;

and the enforcing authority shall notify the holder of the authorisation of its determination of those matters.

(3) Where the enforcing authority has determined that the proposed change would not involve a substantial change, but has also determined under paragraph (b) or (c) of subsection (2) above that the change would lead to or require the variation of the conditions of the authorisation, then—

(a) the enforcing authority shall (either on notifying its determination under that subsection or on a subsequent occasion) notify the holder of the authorisation of the variations which the authority is likely to consider making; and

(b) the holder may apply in the prescribed form to the enforcing authority for the variation of the conditions of the authorisation so that he may make the proposed change.

(4) Where the enforcing authority has determined that a proposed change would involve a substantial change that would lead to or require the variation of the conditions of the authorisation, then—

(a) the authority shall (either on notifying its determination under subsection (2) above or on a subsequent occasion) notify the holder of the authorisation of the variations which the authority is likely to consider making; and

(b) the holder of the authorisation shall, if he wishes to proceed with the change, apply in the prescribed form to the enforcing authority for the variation of the conditions of the authorisation.

(5) The holder of an authorisation may at any time, unless he is carrying on a prescribed process under the authorisation and wishes to make a relevant change in the process, apply to the enforcing authority in the prescribed form for the variation of the conditions of the authorisation.

(6) A person carrying on a process under an authorisation who wishes to make a relevant change in the process may, where it appears to him that the change will require the variation of the conditions of the authorisation, apply to the enforcing authority in the prescribed form for the variation of the conditions of the authorisation specified in the application.

(7) A person who makes an application for the variation of the conditions of an authorisation shall furnish the authority with such information as may be prescribed or as the authority may by notice require.

(8) On an application for variation of the conditions of an authorisation under any provision of this section—

(a) the enforcing authority may, having fulfilled the requirements of Part II of Schedule 1 to this Act in cases to which they apply, as it thinks fit either refuse the application or, subject to the requirements of section 7 above, vary the conditions or, in the case of an

application under subsection (6) above, treat the application as a request for a determination under subsection (2) above; and

(b) if the enforcing authority decides to vary the conditions, it shall serve a variation notice on the holder of the authorisation.

[(9) Any application to the enforcing authority under this section shall be accompanied—

(a) in a case where the enforcing authority is the Environment Agency or SEPA, by the charge (if any) prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995; or

(b) in any other case, by the fee (if any) prescribed by a scheme under section 8 above.

] [1]

(10) This section applies to any provision other than a condition which is contained in an authorisation as it applies to a condition with the modification that any reference to the breach of a condition shall be read as a reference to acting outside the scope of the authorisation.

(11) For the purposes of this section a relevant change in a prescribed process is a change in the manner of carrying on the process which is capable of altering the substances released from the process or of affecting the amount or any other characteristic of any substance so released.

Notes

[1] Substituted by Environment Act 1995 c. 25 Sch.22 para.52 (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 11: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 11: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 11(1)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

12.— Revocation of authorisation.

(1) The enforcing authority may at any time revoke an authorisation by notice in writing to the person holding the authorisation.

(2) Without prejudice to the generality of subsection (1) above, the enforcing authority may revoke an authorisation where it has reason to believe that a prescribed process for which the authorisation is in force has not been carried on or not for a period of twelve months.

(3) The revocation of an authorisation under this section shall have effect from the date specified in the notice; and the period between the date on which the notice is served and the date so specified shall not be less than twenty-eight days.

(4) The enforcing authority may, before the date on which the revocation of an authorisation takes effect, withdraw the notice or vary the date specified in it.

(5) The Secretary of State may, if he thinks fit in relation to an authorisation, give to the enforcing authority directions as to whether the authority should revoke the authorisation under this section.

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 12: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 12: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 12(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Enforcement

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

13.— Enforcement notices.

(1) If the enforcing authority is of the opinion that the person carrying on a prescribed process under an authorisation is contravening any condition of the authorisation, or is likely to contravene any such condition, the authority may serve on him a notice ("an enforcement notice").

(2) An enforcement notice shall—

(a) state that the authority is of the said opinion;

(b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;

(c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and

(d) specify the period within which those steps must be taken.

(3) The Secretary of State may, if he thinks fit in relation to the carrying on by any person of a prescribed process, give to the enforcing authority directions as to whether the authority should exercise its powers under this section and as to the steps which are to be required to be taken under this section.

[(4) The enforcing authority may, as respects any enforcement notice it has issued to any person, by notice in writing served on that person, withdraw the notice. **]** [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.53 (October 12, 1995)

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 13: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 13: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 13(1)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

14.— Prohibition notices.

(1) If the enforcing authority is of the opinion, as respects the carrying on of a prescribed process under an authorisation, that the continuing to carry it on, or the continuing to carry it on in a particular manner, involves an imminent risk of serious pollution of the environment the authority shall serve a notice (a "prohibition notice") on the person carrying on the process.

(2) A prohibition notice may be served whether or not the manner of carrying on the process in question contravenes a condition of the authorisation and may relate to any aspects of the process, whether regulated by the conditions of the authorisation or not.

(3) A prohibition notice shall—

(a) state the authority's opinion;

(b) specify the risk involved in the process;

(c) specify the steps that must be taken to remove it and the period within which they must be taken; and

(d) direct that the authorisation shall, until the notice is withdrawn, wholly or to the extent specified in the notice cease to have effect to authorise the carrying on of the process;

and where the direction applies to part only of the process it may impose conditions to be observed in carrying on the part which is authorised to be carried on.

(4) The Secretary of State may, if he thinks fit in relation to the carrying on by any person of a prescribed process, give to the enforcing authority directions as to—

(a) whether the authority should perform its duties under this section; and

(b) the matters to be specified in any prohibition notice in pursuance of subsection (3) above which the authority is directed to issue.

(5) The enforcing authority shall, as respects any prohibition notice it has issued to any person, by notice in writing served on that person, withdraw the notice when it is satisfied that the steps required by the notice have been taken.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 14: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 14: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 14(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

15.— Appeals as respects authorisations and against variation, enforcement and prohibition notices.

(1) The following persons, namely—

(a) a person who has been refused the grant of an authorisation under section 6 above;

(b) a person who is aggrieved by the conditions attached, under any provision of this Part, to his authorisation;

(c) a person who has been refused a variation of an authorisation on an application under section 11 above;

(d) a person whose authorisation has been revoked under section 12 above;

may appeal against the decision of the enforcing authority to the Secretary of State (except where the decision implements a direction of his).

(2) A person on whom a variation notice, an enforcement notice or a prohibition notice is served may appeal against the notice to the Secretary of State **[** (except where the notice implements a direction of his) **]**[1] .

[(3) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc). **]**[2]

(4) An appeal under this section shall, if and to the extent required by regulations under subsection (10) below, be advertised in such manner as may be prescribed by regulations under that subsection.

[(5) Before determining an appeal under this section, the Secretary of State may, if he thinks fit—

(a) cause the appeal to take or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private); or

(b) cause a local inquiry to be held;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by either party to the appeal to be heard with respect to the appeal.
] [3]

(6) On determining an appeal against a decision of an enforcing authority under subsection (1) above, the Secretary of State—

(a) may affirm the decision;

(b) where the decision was a refusal to grant an authorisation or a variation of an authorisation, may direct the enforcing authority to grant the authorisation or to vary the authorisation, as the case may be;

(c) where the decision was as to the conditions attached to an authorisation, may quash all or any of the conditions of the authorisation;

(d) where the decision was to revoke an authorisation, may quash the decision;

and where he exercises any of the powers in paragraphs (b), (c) or (d) above, he may give directions as to the conditions to be attached to the authorisation.

(7) On the determination of an appeal under subsection (2) above the Secretary of State may either quash or affirm the notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.

(8) Where an appeal is brought under subsection (1) above against the revocation of an authorisation, the revocation shall not take effect pending the final determination or the withdrawal of the appeal.

(9) Where an appeal is brought under subsection (2) above against a notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(10) Provision may be made by the Secretary of State by regulations with respect to appeals under this section and in particular—

(a) as to the period within which and the manner in which appeals are to be brought; and

(b) as to the manner in which appeals are to be considered **[** ; **]** [4]

[and any such regulations may make different provision for different cases or different circumstances. **]** [4]

Notes

1 Words added by Environment Act 1995 c. 25 Sch.22 para.54(2) (April 1, 1996)

2 Substituted by Environment Act 1995 c. 25 Sch.22 para.54(3) (April 1, 1996)

3 Substituted by Environment Act 1995 c. 25 Sch.22 para.54(4) (April 1, 1996)

4 Words added by Environment Act 1995 c. 25 Sch.22 para.54(5) (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 15: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 15: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 15(1)-(5), (6)-(10)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt I s. 15(5)(a)-(5)(b): England, Wales, Scotland

Repealed

16.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Repealed

17.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Repealed

18.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

19.— Obtaining of information from persons and authorities.

(1) For the purposes of the discharge of his functions under this Part, the Secretary of State may, by notice in writing served on an enforcing authority, require the authority to furnish such information about the discharge of its functions as an enforcing authority under this Part as he may require.

(2) For the purposes of the discharge of their respective functions under this Part, the following authorities, that is to say—

(a) the Secretary of State,
(b) a local enforcing authority,
[(c) the Environment Agency, and
(d) SEPA, **]** [1]

may, by notice in writing served on any person, require that person to furnish to the authority such information which the authority reasonably considers that it needs as is specified in the notice, in such form and within such period following service of the notice **[**, or at such time, **]** [2] as is so specified.

(3) For the purposes of this section the discharge by the Secretary of State of an obligation of the United Kingdom under **[…]**[3] any international agreement relating to environmental protection shall be treated as a function of his under this Part.

Notes

1 Substituted by Environment Act 1995 c. 25 Sch.22 para.56(a) (April 1, 1996)

2 Words added by Environment Act 1995 c. 25 Sch.22 para.56(b) (April 1, 1996)

3 Words repealed by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Scotland

[…][1]

Notes

1 Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 19: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 19: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 19(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Publicity

Law In Force With Amendments Pending

20.— Public registers of information.

(1) It shall be the duty of each enforcing authority, as respects prescribed processes for which it is the enforcing authority, to maintain, in accordance with regulations made by the Secretary of State, a register containing prescribed particulars of or relating to—

(a) applications for authorisations made to that authority;

(b) the authorisations which have been granted by that authority or in respect of which the authority has functions under this Part;

(c) variation notices, enforcement notices and prohibition notices issued by that authority;

(d) revocations of authorisations effected by that authority;

(e) appeals under section 15 above;

(f) convictions for such offences under section 23(1) below as may be prescribed;

(g) information obtained or furnished in pursuance of the conditions of authorisations or under any provision of this Part;

(h) directions given to the authority under any provision of this Part by the Secretary of State; and

(i) such other matters relating to the carrying on of prescribed processes or any pollution of the environment caused thereby as may be prescribed;

but that duty is subject to sections 21 and 22 below.

(2) Subject to subsection (4) below, the register maintained by a local enforcing authority **[** in England and Wales **]** [1] shall also contain prescribed particulars of such information contained in any register maintained by **[** the Environment Agency **]** [2] as relates to the carrying on in the area of the authority of prescribed processes in relation to which **[** the Environment Agency **]** [2] has functions under this Part; and **[** the Environment Agency **]** [2] shall furnish each authority with the particulars which are necessary to enable it to discharge its duty under this subsection.

(3) **[…]**[3]

(4) Subsection (2) above does not apply to port health authorities but each local enforcing authority **[** in England and Wales **]** [4] whose area adjoins that of a port health authority shall include corresponding information in the register maintained by it; and **[** the Environment Agency **]** [5] shall furnish each such local enforcing authority with the particulars which are necessary to enable it to discharge its duty under this subsection.

(5) Where information of any description is excluded from any register by virtue of section 22 below, a statement shall be entered in the register indicating the existence of information of that description.

(6) The Secretary of State may give to enforcing authorities directions requiring the removal from any register of theirs of any specified information not prescribed for inclusion under subsection (1) or (2) above or which, by virtue of section 21 or 22 below, ought to have been excluded from the register.

(7) It shall be the duty of each enforcing authority—

(a) to secure that the registers maintained by them under this section are available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges **[…]**[6]

[and, for the purposes of this subsection, places may be prescribed by the Secretary of State at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question. **]** [6]

(8) Registers under this section may be kept in any form.

(9) **[…]**[3]

(10) In this section "prescribed" means prescribed in regulations under this section.

Notes

1 Words added by Environment Act 1995 c. 25 Sch.22 para.57(2) (April 1, 1996)

2 Words substituted by Environment Act 1995 c. 25 Sch.22 para.57(2) (April 1, 1996)

3 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

4 Words substituted by Environment Act 1995 c. 25 Sch.22 para.57(4) (April 1, 1996)

5 Words added by Environment Act 1995 c. 25 Sch.22 para.57(4) (April 1, 1996)

6 Words added by Environment Act 1995 c. 25 Sch.22 para.57(5) (April 1, 1996)

Amendments Pending

Pt I s. 20: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 20: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 20(1)-(10): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force With Amendments Pending

21.— Exclusion from registers of information affecting national security.

(1) No information shall be included in a register maintained under section 20 above if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which subsection (1) above applies, give to enforcing authorities directions—

(a) specifying information, or descriptions of information, to be excluded from their registers; or

(b) specifying descriptions of information to be referred to the Secretary of State for his determination;

and no information referred to the Secretary of State in pursuance of paragraph (b) above shall be included in any such register until the Secretary of State determines that it should be so included.

(3) The enforcing authority shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under subsection (2) above.

(4) A person may, as respects any information which appears to him to be information to which subsection (1) above may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

(a) he shall notify the enforcing authority that he has done so; and

(b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.

Amendments Pending

Pt I s. 21: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 21: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 21(1)-(4)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

22.— Exclusion from registers of certain confidential information.

(1) No information relating to the affairs of any individual or business shall be included in a register maintained under section 20 above, without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

(a) is, in relation to him, commercially confidential; and

(b) is not required to be included in the register in pursuance of directions under subsection (7) below;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by the enforcing authority or, on appeal, by the Secretary of State.

(2) Where information is furnished to an enforcing authority for the purpose of—

(a) an application for an authorisation or for the variation of an authorisation;

(b) complying with any condition of an authorisation; or

(c) complying with a notice under section 19(2) above;

then, if the person furnishing it applies to the authority to have the information excluded from the register on the ground that it is commercially confidential (as regards himself or another person), the authority shall determine whether the information is or is not commercially confidential.

(3) A determination under subsection (2) above must be made within the period of fourteen days beginning with the date of the application and if the enforcing authority fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to an enforcing authority that any information (other than information furnished in circumstances within subsection (2) above) which has been obtained by the authority under or by virtue of any provision of this Part might be commercially confidential, the authority shall—

(a) give to the person to whom or whose business it relates notice that that information is required to be included in the register unless excluded under this section; and

(b) give him a reasonable opportunity—

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and

(ii) of making representations to the authority for the purpose of justifying any such objection;

and, if any representations are made, the enforcing authority shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(5) Where, under subsection (2) or (4) above, an authority determines that information is not commercially confidential—

(a) the information shall not be entered **[** in the register **]** [1] until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned;

(b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered **[** in the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn **]** [2] .

[(6) Subsections (5) and (10) of section 15 above shall apply in relation to an appeal under subsection (5) above as they apply in relation to an appeal under that section, but—

(a) subsection (5) of that section shall have effect for the purposes of this subsection with the substitution for the words from "(which may" onwards of the words "(which must be held in private)"; and

(b) subsection (5) above is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

] [3]

(7) The Secretary of State may give to the enforcing authorities directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under section 20 above notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply

to the authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the authority shall determine whether or not that is the case.

(9) Subsections (5) and (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) or (4) above.

(10) The Secretary of State may, by order, substitute for the period for the time being specified in subsection (3) above such other period as he considers appropriate.

(11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

Notes

[1] Words substituted by Environment Act 1995 c. 25 Sch.22 para.58(2)(a) (April 1, 1996)

[2] Words substituted by Environment Act 1995 c. 25 Sch.22 para.58(2)(b) (April 1, 1996)

[3] Substituted by Environment Act 1995 c. 25 Sch.22 para.58(3) (April 1, 1996)

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 22: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 22: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 22(1)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Provisions as to offences

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

23.— Offences.

(1) It is an offence for a person—

(a) to contravene section 6(1) above;

(b) to fail to give the notice required by section 9(2) above;

(c) to fail to comply with or contravene any requirement or prohibition imposed by an enforcement notice or a prohibition notice;

(d)-(f) **[…]**[1]

(g) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under section 19(2) above;

(h) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

(i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or

(ii) for the purpose of obtaining the grant of an authorisation to himself or any other person or the variation of an authorisation;

(i) intentionally to make a false entry in any record required to be kept under section 7 above;

(j) with intent to deceive, to forge or use a document issued or authorised to be issued under section 7 above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;

(k) **[…]**[1]

(l) to fail to comply with an order made by a court under section 26 below.

(2) A person guilty of an offence under paragraph (a), (c) or (l) of subsection (1) above shall be liable:

(a) on summary conviction, to **[** a fine **]**[2] **[** or to imprisonment for a term not exceeding three months, or to both **]**[3] ;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(3) A person guilty of an offence under paragraph (b), (g), (h), (i) or (j) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) **[…]**[4]

(5) **[…]**[5]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

[2] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(2) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

[3] Words added by Environment Act 1995 c. 25 Sch.22 para.59(3) (April 1, 1996)

[4] Repealed by Environment Act 1995 c. 25 Sch.22 para.59(4) (April 1, 1996)

[5] Repealed by Environment Act 1995 c. 25 Sch.22 para.59(5) (April 1, 1996)

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 23: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 23: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 23(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

24. Enforcement by High Court.

If the enforcing authority is of the opinion that proceedings for an offence under section 23(1)(c) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice or a prohibition notice, the authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction for the purpose of securing compliance with the notice.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 24: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 24: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 24: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

25.— Onus of proof as regards techniques and evidence.

(1) In any proceedings for an offence under section 23(1)(a) above consisting in a failure to comply with the general condition implied in every authorisation by section 7(4) above, it shall be for the accused to prove that there was no better available technique not entailing excessive cost than was in fact used to satisfy the condition.

(2) Where—

(a) an entry is required under section 7 above to be made in any record as to the observance of any condition of an authorisation; and

(b) the entry has not been made;

that fact shall be admissible as evidence that that condition has not been observed.

[(3) Subsection (2) above shall not have effect in relation to any entry required to be made in any record by virtue of a condition of a relevant licence, within the meaning of section 111 of the Environment Act 1995 (which makes corresponding provision in relation to such licences). **]** [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt V s.111(6) (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 25: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 25: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 25(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

26.— Power of court to order cause of offence to be remedied.

(1) Where a person is convicted of an offence under section 23(1)(a) or (c) above in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying those matters.

(2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or as extended under this subsection, as the case may be.

(3) Where a person is ordered under subsection (1) above to remedy any matters, that person shall not be liable under section 23 above in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under subsection (2) above.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 26: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 26: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 26(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

27.— Power of chief inspector to remedy harm.

(1) Where the commission of an offence under section 23(1)(a) or (c) above causes any harm which it is possible to remedy, **[** the appropriate Agency **]**[1] may, subject to subsection (2) below—

(a) arrange for any reasonable steps to be taken towards remedying the harm; and

(b) recover the cost of taking those steps from any person convicted of that offence.

(2) **[** The Environment Agency or SEPA, as the case may be, shall not exercise its **]**[2] powers under this section except with the approval in writing of the Secretary of State and, where any of the steps are to be taken on or will affect land in the occupation of any person other than the person on whose land the prescribed process is being carried on, with the permission of that person.

Notes

[1] Words substituted by Environment Act 1995 c. 25 Sch.22 para.60(1) (April 1, 1996)

[2] Words substituted by Environment Act 1995 c. 25 Sch.22 para.60(2) (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Pt I s. 27: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 27: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 27(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Authorisations and other statutory controls

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed With Amendments Pending

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

England and Wales

[28.— Authorisations and other statutory controls.

(1) No condition shall at any time be attached to an authorisation so as to regulate the final disposal by deposit in or on land of controlled waste (within the meaning of Part II), nor shall any condition apply to such a disposal;

(2) Where any of the activities comprising a prescribed process are regulated both by an authorisation granted by the enforcing authority under this Part and by an environmental permit granted under **[** the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) **]** [2] in relation to a radioactive substances activity within the meaning of those

Regulations, then, if different obligations are imposed as respects the same matter by a condition attached to the authorisation under this Part and a condition attached to the environmental permit, the condition imposed by the authorisation under this Part shall be treated as not binding the person carrying on the process.
] [1]

Notes

[1] Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(2) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

[2] Words substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(2) (January 1, 2017)

Amendments Pending

Pt I s. 28: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Pt I s. 28: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt I s. 28(1)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART II

WASTE ON LAND

Preliminary

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

29.— Preliminary.

(1) The following provisions have effect for the interpretation of this Part.

[(1A) “Appropriate person” means–

(a) in relation to England, the Secretary of State;
(b) in relation to Wales, the National Assembly for Wales.

] [1]

(2) The "environment" consists of all, or any, of the following media, namely land, water and the air.

(3) "Pollution of the environment" means pollution of the environment due to the release or escape (into any environmental medium) from—

(a) the land on which controlled waste is treated,
(b) the land on which controlled waste is kept,
(c) the land in or on which controlled waste is deposited,
(d) fixed plant by means of which controlled waste is treated, kept or disposed of,

of substances or articles constituting or resulting from the waste and capable (by reason of the quantity or concentrations involved) of causing harm to man or any other living organisms supported by the environment.

(4) Subsection (3) above applies in relation to mobile plant by means of which controlled waste is treated or disposed of as it applies to plant on land by means of which controlled waste is treated or disposed of.

(5) For the purposes of subsections (3) and (4) above "harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and in the case of man includes offence to any of his senses or harm to his property; and "harmless" has a corresponding meaning.

[(5A) In relation to controlled waste—

(a) a reference to the management of such waste is a reference to the collection, transport, recovery and disposal of such waste and includes—
    (i) the supervision of such operations;
    (ii) the after-care of disposal sites; and
    (iii) actions taken as a broker or dealer;
(b) "collection" means the gathering of such waste, including the preliminary sorting and preliminary storage of such waste for the purposes of transport to a waste treatment facility ; **[…]** [3]
[(ba) "separate collection" means that waste is presented for collection, and collected, in a manner that ensures that—
    (i) dry recyclable waste is kept separate from other waste;
    (ii) waste from one dry waste stream is kept separate from waste in another such stream; and
    (iii) food waste is kept separate from other waste; and
] [3]
(c) "recovery" refers to any of the operations listed in Part III of Schedule 4 to the Waste Management Licensing (Scotland) Regulations 2011, and any other operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in a plant or in the wider economy,

and cognate expressions shall be construed accordingly.

] [2]

(6) The "disposal" of waste **[** has the meaning given by regulation 2(1) of the Waste Management Licensing (Scotland) Regulations 2011 **]** [2] and, subject to subsection (7) below , waste is "treated" when it is subjected to any process, including making it re-usable or reclaiming substances from it and "recycle" (and cognate expressions) shall be construed accordingly.

(7) Regulations made by the Secretary of State may prescribe activities as activities which constitute the treatment of waste for the purposes of this Part or any provision of this Part prescribed in the regulations.

(8) "Land" includes land covered by waters where the land is above the low water mark of ordinary spring tides and references to land on which controlled waste is treated, kept or deposited are references to the surface of the land (including any structure set into the surface).

(9) "Mobile plant" means, subject to subsection (10) below, plant which is designed to move or be moved whether on roads or other land.

(10) Regulations made by the Secretary of State may prescribe descriptions of plant which are to be treated as being, or as not being, mobile plant for the purposes of this Part.

(11) "Substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.

Notes

1 Definition inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.51 (April 7, 2005)

2 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(2) (March 27, 2011)

3 Added by Waste (Scotland) Regulations 2012/148 (Scottish SI) reg.2(2) (May 17, 2012)

England and Wales

[29.— Preliminary.

(1) The following provisions have effect for the interpretation of this Part.

(1A) "Appropriate person" means–

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the National Assembly for Wales.

(2) The "environment" consists of all, or any, of the following media, namely land, water and the air.

(3) "Pollution of the environment" means pollution of the environment due to the release or escape (into any environmental medium) from—

(a) the land on which controlled waste **[** or extractive waste **]** [2] is treated,

(b) the land on which controlled waste **[** or extractive waste **]** [2] is kept,

(c) the land in or on which controlled waste **[** or extractive waste **]** [2] is deposited,

(d) fixed plant by means of which controlled waste **[** or extractive waste **]** [2] is treated, kept or disposed of,

of substances or articles constituting or resulting from the waste and capable (by reason of the quantity or concentrations involved) of causing harm to man or any other living organisms supported by the environment.

(4) Subsection (3) above applies in relation to mobile plant by means of which controlled waste **[** or extractive waste **]** [2] is treated or disposed of as it applies to plant on land by means of which controlled waste **[** or extractive waste **]** [2] is treated or disposed of.

(5) For the purposes of subsections (3) and (4) above "harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and in the case of man includes offence to any of his senses or harm to his property; and "harmless" has a corresponding meaning.

(6) The "disposal" of waste includes its disposal by way of deposit in or on land and, subject to subsection (7) below, waste is "treated" when it is subjected to any process, including making it re-usable or reclaiming substances from it and "recycle" (and cognate expressions) shall be construed accordingly.

(7) Regulations made by the Secretary of State may prescribe activities as activities which constitute the treatment of waste for the purposes of this Part or any provision of this Part prescribed in the regulations.

(8) "Land" includes land covered by waters where the land is above the low water mark of ordinary spring tides and references to land on which controlled waste **[** or extractive waste **]** [2] is treated, kept or deposited are references to the surface of the land (including any structure set into the surface) .

(9) "Mobile plant" means plant which is designed to move or be moved whether on roads or other land.

(10) [...]

(11) "Substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.

[(12) "The Environmental Permitting Regulations" means **[** the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) **]** [4] . **]** [3]

(13) The following expressions have the same meaning as in **[** the Environmental Permitting Regulations **]** [3] —

"environmental permit";
"exempt waste operation";
["extractive waste"
"mining waste operation"
"the Mining Waste Directive" **]** [2]
"waste operation".

] [1]

Notes

1 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.3 (April 6, 2008)

2 Amended by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(2) (July 7, 2009)

3 Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5 (April 6, 2010 immediately after the coming into force of SI 2009/3381)

4 Words substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(3) (January 1, 2017)

Commencement

Pt II s. 29: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt II s. 29(1)-(5), (6)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 29(5A)-(5A)(c): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force With Amendments Pending

Scotland

30.— Authorities for purposes of this Part.

[(1) Any reference in this Part to a waste regulation authority—

(a) in relation to England **[…]**[2] , is a reference to the Environment Agency **[** , the Natural Resources Body for Wales **]**[3] ; **[…]**[2]

[(aa) in relation to Wales, is a reference to the Natural Resources Body for Wales; and **]**[4]

(b) in relation to Scotland, is a reference to the Scottish Environment Protection Agency;

and any reference in this Part to the area of a waste regulation authority shall accordingly be taken as a reference to the area over which the Environment Agency or the Scottish Environment Protection Agency, as the case may be, exercises its functions or, in the case of any particular function, the function in question.

][1]

(2) For the purposes of this Part the following authorities are waste disposal authorities, namely—

(a) for any non-metropolitan county in England, the county council;

(b) in Greater London, the following—

(i) for the area of a London waste disposal authority, the authority constituted as the waste disposal authority for that area;

(ii) for the City of London, the Common Council;

(iii) for any other London borough, the council of the borough;

(c) in the metropolitan county of Greater Manchester, the following—

(i) for the metropolitan district of Wigan, the district council;

(ii) for all other areas in the county, the authority constituted as the Greater Manchester Waste Disposal Authority;

(d) for the metropolitan county of Merseyside, the authority constituted as the Merseyside Waste Disposal Authority;

(e) for any district in any other metropolitan county in England, the council of the district;

[(f) for any county or county borough in Wales, the council of the county or county borough; **]** [5]

(g) in Scotland, **[** a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 **]** [6] .

(3) For the purposes of this Part the following authorities are waste collection authorities—

(a) for any district in England **[…]**[7] not within Greater London, the council of the district;

(b) in Greater London, the following—

(i) for any London borough, the council of the borough;

(ii) for the City of London, the Common Council;

(iii) for the Temples, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple respectively;

[(bb) for any county or county borough in Wales, the council of the county or county borough; **]** [8]

(c) in Scotland, **[** a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 **]** [6] .

(4) In this section references to particular authorities having been constituted as waste disposal **[…]**[9] authorities are references to their having been so constituted by the Waste Regulation and Disposal (Authorities) Order 1985 made by the Secretary of State under section 10 of the Local Government Act 1985 and the reference to London waste disposal authorities is a reference to the authorities named in Parts I, II, III, IV and V of Schedule 1 to that Order and this section has effect subject to any order made under the said section 10**[…]**[10] .

(5) In this Part "waste disposal contractor" means a person who in the course of a business collects, keeps, treats or disposes of waste, being either—

(a) a company formed for all or any of those purposes by a waste disposal authority whether in pursuance of section 32 below or otherwise; or

(b) either a company formed for all or any of those purposes by other persons or a partnership or an individual;

and "company" **[** means a company as defined in section 1(1) of the Companies Act 2006 **]** [11] and "formed" , in relation to a company formed by other persons, includes the **[** alteration of the company's articles so as to add, remove or alter a statement of the company's objects **]** [12] .

(6)-(8) **[…]**[13]

Notes

1 Substituted by Environment Act 1995 c. 25 Sch.22 para.62(2) (April 1, 1996)

2 Words repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(2) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

3 Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(4) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

4 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(3) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

5 Substituted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(2) (April 1, 1996)

6 Words substituted by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(3) (April 1, 1996)

7 Words repealed by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(3) (April 1, 1996)

8 Added by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(3) (April 1, 1996)

9 Words repealed by Environment Act 1995 c. 25 Sch.22 para.62(3)(a) (April 1, 1996)

10 Words repealed by Environment Act 1995 c. 25 Sch.22 para.62(3)(b) (April 1, 1996)

[11] Words substituted by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009/1941 Sch.1 para.120(a) (October 1, 2009)

[12] Possible drafting error, words are purportedly substituted in s.30(5) but words do not exist and therefore the amendment is applied to similar words by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009/1941 Sch.1 para.120(b) (October 1, 2009)

[13] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Wales

[30.— Authorities for purposes of this Part.

(1) Any reference in this Part to a waste regulation authority—

(a) in relation to England **[…]**[2] , is a reference to the Environment Agency **[** , the Natural Resources Body for Wales **]**[3] ; **[…]**[2]

[(aa) in relation to Wales, is a reference to the Natural Resources Body for Wales; and **]**[4]

(b) in relation to Scotland, is a reference to the Scottish Environment Protection Agency;

and any reference in this Part to the area of a waste regulation authority shall accordingly be taken as a reference to the area over which the Environment Agency or the Scottish Environment Protection Agency, as the case may be, exercises its functions or, in the case of any particular function, the function in question.

(2) For the purposes of this Part the following authorities are waste disposal authorities, namely—

(a) for any non-metropolitan county in England, the county council;

(b) in Greater London, the following—

(i) for the area of a London waste disposal authority, the authority constituted as the waste disposal authority for that area;

(ii) for the City of London, the Common Council;

(iii) for any other London borough, the council of the borough;

(c) in the metropolitan county of Greater Manchester, the following—

(i) for the metropolitan district of Wigan, the district council;

(ii) for all other areas in the county, the authority constituted as the Greater Manchester Waste Disposal Authority;

(d) for the metropolitan county of Merseyside, the authority constituted as the Merseyside Waste Disposal Authority;

(e) for any district in any other metropolitan county in England, the council of the district;

(f) for any county or county borough in Wales, the council of the county or county borough;

(g) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

(3) For the purposes of this Part the following authorities are waste collection authorities—

(a) for any district in England not within Greater London, the council of the district;

(b) in Greater London, the following—

(i) for any London borough, the council of the borough;

(ii) for the City of London, the Common Council;

(iii) for the Temples, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple respectively;

(bb) for any county or county borough in Wales, the council of the county or county borough;

(c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

(4) In this section references to particular authorities having been constituted as waste disposal authorities are references to their having been so constituted by the Waste Regulation and Disposal (Authorities) Order 1985 made by the Secretary of State under section 10 of the Local Government Act 1985 and the reference to London waste disposal authorities is a reference to the authorities named in Parts I, II, III, IV and V of Schedule 1 to that Order and this section has effect subject to any order made under the said section 10.

(5) [...]
] [1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (March 16, 2006 as SI 2006/768)

2 Words repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(2) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

3 Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(4) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

4 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(3) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

England

[30.— Authorities for purposes of this Part.

(1) Any reference in this Part to a waste regulation authority—

(a) in relation to England **[…]**[2] , is a reference to the Environment Agency **[** , the Natural Resources Body for Wales **]** [3] ; **[…]**[2]

[(aa) in relation to Wales, is a reference to the Natural Resources Body for Wales; and **]** [4]

(b) in relation to Scotland, is a reference to the Scottish Environment Protection Agency;

and any reference in this Part to the area of a waste regulation authority shall accordingly be taken as a reference to the area over which the Environment Agency or the Scottish Environment Protection Agency, as the case may be, exercises its functions or, in the case of any particular function, the function in question.

(2) For the purposes of this Part the following authorities are waste disposal authorities, namely—

(a) for any non-metropolitan county in England, the county council;

(b) in Greater London, the following—

(i) for the area of a London waste disposal authority, the authority constituted as the waste disposal authority for that area;

(ii) for the City of London, the Common Council;

(iii) for any other London borough, the council of the borough;

(c) in the metropolitan county of Greater Manchester, the following—

(i) for the metropolitan district of Wigan, the district council;

(ii) for all other areas in the county, the authority constituted as the Greater Manchester Waste Disposal Authority;

(d) for the metropolitan county of Merseyside, the authority constituted as the Merseyside Waste Disposal Authority;

(e) for any district in any other metropolitan county in England, the council of the district;

(f) for any county or county borough in Wales, the council of the county or county borough;

(g) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

(3) For the purposes of this Part the following authorities are waste collection authorities—

(a) for any district in England not within Greater London, the council of the district;

(b) in Greater London, the following—

(i) for any London borough, the council of the borough;

(ii) for the City of London, the Common Council;

(iii) for the Temples, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple respectively;

(bb) for any county or county borough in Wales, the council of the county or county borough;

(c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

(4) In this section references to particular authorities having been constituted as waste disposal authorities are references to their having been so constituted by the Waste Regulation and Disposal (Authorities) Order 1985 made by the Secretary of State under section 10 of the Local Government Act 1985 and the reference to London waste disposal authorities is a reference to the authorities named in Parts I, II, III, IV and V of Schedule 1 to that Order and this section has effect subject to any order made under the said section 10.

(5) [...]
] [1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005 as SI 2005/2896)

2 Words repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(2) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

3 Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(4) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

4 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.208(3) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Amendments Pending

Pt II s. 30(4A): added by Environment Act 2021 c. 30, Pt 3 s. 57(2) (date to be appointed)

Commencement

Pt II s. 30: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt II s. 30(1)-(1)(a), (1)(b)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 30(1)(aa): England, Wales, Scotland

Repealed

31.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England

Repealed

Wales

32.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2005/2896 art.6 as amended by SI 2006/1002 art.2 and in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2005/2896 art.6 as amended by SI 2006/1002 art.2 and in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed subject to savings specified in SI 2005/2896 art.6 by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Prohibition on unauthorised or harmful depositing, treatment or disposal of waste

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

33.— Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.

(1) Subject to **[** subsections (1A), (1B), (2) and (3) below **]** [1] **[…]** [2] a person shall not—

(a) deposit controlled waste **[** or extractive waste **]** [3] , or knowingly cause or knowingly permit controlled waste **[** or extractive waste **]** [3] to be deposited in or on any land unless **[** an environmental permit **]** [1] authorising the deposit is in force and the deposit is in accordance with **[** the permit **]** [1] ;

[(b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation (other than an operation within subsection (1)(a)) that—

(i) is carried out in or on any land, or by means of any mobile plant, and

(ii) is not carried out under and in accordance with an environmental permit;

] [1]

(c) treat, keep or dispose of controlled waste **[** or extractive waste **]** [3] in a manner likely to cause pollution of the environment or harm to human health.

[(1A) Paragraphs (a) and (b) of subsection (1) above do not apply in relation to a waste operation that is an exempt waste operation.

[(1B) Subsection (1) does not apply in relation to any part of a waste operation that—

(a) is the subject of a marine licence under the Marine and Coastal Access Act 2009; or

(b) does not require such a licence by virtue of any provision made by or under section 74, 75 [5] or 77 of that Act and does not involve the dismantling of a ship that is waste.

] [4]

] [1]

[(2) Subject to subsection (2A) below, paragraphs (a) and (b) of subsection (1) above do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the property.

(2A) Subsection (2) above does not apply to the treatment, keeping or disposal of household waste by an establishment or undertaking. **]** [6]

(3) Subsection (1)(a), (b) or (c) above do not apply in cases prescribed in regulations made by the Secretary of State and the regulations may make different exceptions for different areas.

(4) The Secretary of State, in exercising his power under subsection (3) above, shall have regard in particular to the expediency of excluding from **[** the prohibitions in subsection (1) **]** [1] —

(a) any deposits which are small enough or of such a temporary nature that they may be so excluded;

(b) any means of treatment or disposal which are innocuous enough to be so excluded;
(c) cases for which adequate controls are provided by another enactment than this section.

(5) Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a) above, be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

(6) A person who contravenes subsection (1) above **[…]**[1] commits an offence.

(7) It shall be a defence for a person charged with an offence under this section to prove—
(a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
(b) **[…]**[7]
[(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—
(i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and
(ii) particulars of the acts were furnished to the waste regulation authority as soon as reasonably practicable after they were done.
] [8]

[(8) **[** Subject to subsection (9) below, a **]** [6] person who commits an offence under this section is liable–
(a) on summary conviction, to imprisonment for a term not exceeding 12 months or **[** a fine **]** [10] or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.**[…]**[6]
] [9]

[(9) A person (other than an establishment or undertaking) who commits a relevant offence shall be liable **[** on summary conviction, or on conviction on indictment, to a fine. **]** [11]
(a)-(b) **[…]**[11]

(10) In this section, "relevant offence" means an offence under this section in respect of a contravention of subsection (1)(c) above consisting of the treatment, keeping or disposal within the curtillage of a domestic property of household waste from that property.**[…]**[1] **]** [6]

[(11) For the purposes of subsection (1)(a) above, the deposit of waste in or on land includes any listed operation involving such a deposit.

(12) For the purposes of subsection (1)(c) above, treating, keeping or disposing of controlled waste includes submitting it to any listed operation.

(13) For the purposes of this section, a "listed operation" is an operation listed in **[** Annex I or II of the Waste Framework Directive **]** [12] . **]** [1]

Notes

1 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.4 (April 6, 2008)

2 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 2015: as SSI 2015/73)

3 Amended by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(3) (July 7, 2009)

[4] Substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(4) (January 1, 2017)

[5] Section 75 was amended by S.I. 2011/405 and 2016/738.

[6] Amended in relation to England and Wales subject to transitional provisions specified in SI 2006/937 reg.13 by Waste Management (England and Wales) Regulations 2006/937 reg.2(2) (May 15, 2006: amendment has effect subject to transitional provisions specified in SI 2006/937 reg.13)

[7] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (June 7, 2005 for repeals specified in s.108(4)(e)-(f); October 18, 2005 in relation to England for repeals specified in SI 2005/2896 art/3(k); March 16, 2006 in relation to Wales for repeals specified in SI 2006/768 art.2(d); April 6, 2015 for the repeal and purposes specified in SI 2015/425 art.4(2); April 6, 2015 for the repeal specified in SI 2015/425 art.4(3) immediately after the coming into force of SI 2015/426; not yet in force otherwise)

[8] Substituted by Environment Act 1995 c. 25 Sch.22 para.64 (April 1, 1996)

[9] S.33(8) substituted for s.38(8)-(9) by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.41(1) (June 7, 2005: substitution has effect subject to transitional provisions specified in 2005 c.16 s.41(2) and (3))

[10] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(3)(a) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

[11] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(3)(b) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

[12] Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(2) (March 20, 2019)

Scotland

33.— Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.

(1) Subject to subsection (2) **[** , (2B) **]**[1] and (3) below **[…]**[2] a person shall not—

(a) deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence;

(b) treat, keep or dispose of controlled waste, or knowingly cause or knowingly permit controlled waste to be treated, kept or disposed of—

(i) in or on any land, or

(ii) by means of any mobile plant,

except under and in accordance with a waste management licence;

(c) **[** keep or manage **]**[3] controlled waste in a manner likely to cause pollution of the environment or harm to human health.

(2) Subject to subsection (2A) below, paragraphs (a) and (b) of subsection (1) above do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the dwelling.

(2A) Subsection (2) above does not extend to the treatment, keeping or disposal of household waste by an establishment or undertaking.

[(2B) Paragraphs (a) and (b) of subsection (1) above do not apply to the deposit or keeping of a waste portable battery or accumulator at a collection point set up to comply with Article 8(1)(a) of Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators

[as last amended by Directive (EU) 2018/849 of the European Parliament and of the Council[5] **]** [4] (in this section, “the Batteries Directive”).

(2C) In subsection (2B) above, “portable battery or accumulator” has the meaning given by Article 3(3) of the Batteries Directive, but does not include any battery or accumulator excluded from the scope of that Directive by Article 2(2). **]** [1]

[(2D) When interpreting the Batteries Directive for the purposes of this section, Article 2(2) is to be read as though for the words "Member States"' there were substituted "the United Kingdom's". **]** [6]

(3) Subsection (1)(a), (b) or (c) above do not apply in cases prescribed in regulations made by the Secretary of State and the regulations may make different exceptions for different areas.

(4) The Secretary of State, in exercising his power under subsection (3) above, shall have regard in particular to the expediency of excluding from the controls imposed by waste management licences—

(a) any deposits which are small enough or of such a temporary nature that they may be so excluded;

(b) any means of treatment or disposal which are innocuous enough to be so excluded;

(c) cases for which adequate controls are provided by another enactment than this section.

(5) Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a) above, be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

(6) A person who contravenes subsection (1) above or any condition of a waste management licence commits an offence.

(7) It shall be a defence for a person charged with an offence under this section to prove—

(a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the acts done by him constituted a contravention of subsection (1) above; or

(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

(i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and

(ii) particulars of the acts were furnished to the waste regulation authority as soon as reasonably practicable after they were done.

(8) Except in a case falling within subsection (9) or (10) below, a person who commits an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £40,000 or both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(9) A person who commits an offence under this section in relation to special waste (other than household waste of the description specified in subsection (10) below) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £40,000 or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.

(10) A person who commits an offence under subsection (1)(c) above in relation to household waste from a domestic property within the curtilage of the dwelling shall be liable–

(a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

[(11) In subsection (4)(c) above, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [7]

Notes

1 Amended by Waste Batteries (Scotland) Regulations 2009/247 (Scottish SI) reg.3 (July 6, 2009)

2 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 2015: as SSI 2015/73)

3 Words substituted by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(3) (March 27, 2011)

4 Words inserted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) Pt 2 reg.2(2) (December 4, 2020)

5 OJ L 150, 14.6.2018, p.93.

6 Added by Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019/26 (Scottish SI) Pt 5 reg.12(2) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

7 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(2) (June 30, 2014)

Commencement

Pt II s. 33(1)(a)-(1)(b): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 33(1)(c): April 1, 1992 (SI 1991/2829 art. 4)

Pt II s. 33(1A)-(1B): Date not available

Pt II s. 33(2): April 1, 1992 in so far as it relates to 1990 c.43 s.33(1)(c); May 1, 1994 otherwise save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1991/2829 art. 4; SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 33(2A)-(2B): Date not available

Pt II s. 33(3): December 13, 1991 (SI 1991/2829 art. 2)

Pt II s. 33(2C): Date not available

Pt II s. 33(4): December 13, 1991 (SI 1991/2829 art. 2)

Pt II s. 33(2D): Date not available

Pt II s. 33(5): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 33(6)-(9): April 1, 1992 in so far as it relates to 1990 c.43 s.33(1)(c); May 1, 1994 otherwise save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to

such activities in accordance with the provisions of art.3 (SI 1991/2829 art. 4; SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 33(10)-(13): Date not available

Extent

Pt II s. 33-(1)(c), (2)-(2), (6)-(10): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 33(1A)-(1B)(b)(ii), (2A), (11)-(13): England, Wales, Scotland

---

Law In Force With Amendments Pending

[33ZA Fixed penalty notices for contravention of section 33(1)(a): England

(1) Where an authorised officer of an English waste collection authority has reason to believe that a person has committed a waste deposit offence in the area of the authority, the officer may give the person a notice under this section in respect of the offence.

(2) In subsection (1), "waste deposit offence" means an offence under section 33 in respect of a contravention of subsection (1)(a)[2] of that section.

(3) A notice under this section is a notice offering the opportunity of discharging any liability to conviction for the offence to which it relates by payment of a fixed penalty.

(4) Where a person is given a notice under this section in respect of an offence—

(a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice; and

(b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and must state—

(a) the period during which, by virtue of subsection (4)(a), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) If an authorised officer proposes to give a person a notice under this section, the officer may require the person to give the person's name and address.

(7) It is an offence to—

(a) fail to give a name or address when required to do so under subsection (6), or

(b) give a false or inaccurate name or address in response to a requirement under that subsection.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The fixed penalty payable in pursuance of a notice under this section—

(a) is an amount not less than £150 and not more than £400, as specified by the English waste collection authority whose authorised officer gave the notice, or

(b) if no amount is specified by that authority, is £200.

(10) An English waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section may make provision for treating the fixed penalty as having been paid if a lesser amount of not less than £120 is paid before the end of the period of 10 days following the date of the notice.

(11) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of an English waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section, and

(b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(12) In this section—

"authorised officer", in relation to an English waste collection authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;

(b) a person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;

(c) an employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

"chief finance officer", in relation to an English waste collection authority, means the person having responsibility for the financial affairs of the authority;

"English waste collection authority" means a waste collection authority whose area is in England.

] [1]

Notes

[1] Added by Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016/334 reg.2(2) (May 9, 2016)

[2] Section 33(1)(a) was amended by S.I. 2007/3538 and 2009/1799.

Amendments Pending

Pt II s. 33ZA(10A): added by Environment Act 2021 c. 30, Pt 3 s. 69(2)(b) (date to be appointed)

Pt II s. 33ZA(10): words substituted by Environment Act 2021 c. 30, Pt 3 s. 69(2)(a) (date to be appointed)

Pt II s. 33ZA(12) definition of "English waste collection authority": definition repealed by Environment Act 2021 c. 30, Pt 3 s. 57(3) (date to be appointed)

Extent

Pt II s. 33ZA(1)-(12) definition of "English waste collection authority": England, Wales, Scotland

---

Law In Force With Amendments Pending

[33ZB.— Fixed penalty notices for contravention of section 33(1)(a): Wales

(1) Where an authorised officer of a Welsh waste collection authority has reason to believe that a person has committed a waste deposit offence in the area of the authority, the officer may give the person a notice under this section in respect of the offence.

(2) In subsection (1), "waste deposit offence" means an offence under section 33 in respect of a contravention of subsection (1)(a) of that section.

(3) A notice under this section is a notice offering the opportunity of discharging any liability to conviction for the offence to which it relates by payment of a fixed penalty.

(4) Where a person is given a notice under this section in respect of an offence—

(a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice, and

(b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

(5) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and must state—

(a) the period during which, by virtue of subsection (4)(a), proceedings will not be taken for the offence,

(b) the amount of the fixed penalty, and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) If an authorised officer proposes to give a person a notice under this section, the officer may require the person to give the person's name and address.

(7) It is an offence to—

(a) fail to give a name or address when required to do so under subsection (6), or

(b) give a false or inaccurate name or address in response to a requirement under that subsection.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The fixed penalty payable in pursuance of a notice under this section—

(a) is an amount not less than £150 and not more than £400, as specified by the Welsh waste collection authority whose authorised officer gave the notice, or

(b) if no amount is specified by that authority, is £200.

(10) A Welsh waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section may make provision for treating the fixed penalty as having been paid if a lesser amount of not less than £120 is paid before the end of the period of 10 days following the date of the notice.

(11) In any proceedings, a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of a Welsh waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section, and

(b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(12) In this section—

"authorised officer" in relation to a Welsh waste collection authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;

(b) a person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;

(c) an employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

"chief finance officer", in relation to a Welsh waste collection authority, means the person having responsibility for the financial affairs of the authority;

"Welsh waste collection authority" means a waste collection authority whose area is in Wales.

] [1]

Notes

[1] Added by Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017/1024 reg.2(2) (October 25, 2017)

Amendments Pending

Pt II s. 33ZB(10A): added by Environment Act 2021 c. 30, Pt 3 s. 69(3)(b) (date to be appointed)

Pt II s. 33ZB(10): words substituted by Environment Act 2021 c. 30, Pt 3 s. 69(3)(a) (date to be appointed)

Extent

Pt II s. 33ZB(1)-(12) definition of "Welsh waste collection authority": England, Wales, Scotland

---

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

[33A Fixed penalty notices for contraventions of section 33(1)(a) and (c): Scotland

(1) Where–

(a) an authorised **[** person or a constable **]** [2] has reason to believe that a person has committed a relevant offence **[…]** [3]

(b) **[…]** [4]

he may give that person a notice under this section in respect of the offence.

(2) In subsection (1) above, "relevant offence" means an offence under section 33 above in respect of a contravention of subsection (1)(a) or (c) of that section.

(3) A notice under this section is a notice offering the opportunity, by paying a fixed penalty, of discharging any liability to conviction for the offence to which it relates.

(4) Where–

(a) a constable **[…]**[5]

(b) **[…]**[5]

gives a notice under this section to a person, he shall, no later than 24 hours after the giving of the notice, send a copy of it to the local authority in whose area the offence was committed.

(5) Where a person is given a notice under this section in respect of an offence–

(a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and

(b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(6) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and shall state–

(a) the period during which, by virtue of subsection (5)(a) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid;

and without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(7) Where a letter is sent in accordance with subsection (6) above payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of notices under this section shall be such as the Scottish Ministers may by order prescribe.

[(8A) If an authorised person proposes to give a person a notice under this section, the authorised person may require the person to give him his name and address.

(8B) A person commits an offence if he fails to give his name and address when required to do so under subsection (8A) above.

(8C) A person who commits an offence under subsection (8B) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale. **]** [6]

(9) The fixed penalty payable in pursuance of a notice under this section shall, subject to subsection (10) below, be **[** £200 **]** [7] .

(10) The Scottish Ministers may by order substitute a different amount (not exceeding level 2 on the standard scale) for the amount for the time being specified as the amount of the fixed penalty in subsection (9) above.

(11) In any proceedings a certificate which–

(a) purports to be signed by or on behalf of **[** a proper officer **]** [8] ; and

(b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

[(11A) In subsection (11) above, "proper officer" means—

(a) in a case where a notice under this section is given by an officer of a local authority authorised as mentioned in paragraph (a) of the definition of "authorised person" in subsection (13) below, the officer who has, as respects the authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration);

(b) in a case where a notice under this section is given by an officer of Loch Lomond and The Trossachs National Park Authority authorised as mentioned in paragraph (b) of that definition, the proper officer for that Authority appointed under paragraph 12(3) of schedule 2 to the National Parks (Scotland) Act 2000.

] [9]

(12) A fixed penalty payable in pursuance of a notice under this section shall be payable **[—]** [10]

[(a) in a case such as is mentioned in paragraph (a) of subsection (11A) above, to the local authority in whose area the offence was committed; and as respects the sums received by a local authority, those sums shall accrue to the litter authority;

(b) in a case such as is mentioned in paragraph (b) of that subsection, to Loch Lomond and The Trossachs National Park Authority; and as respects the sums received by that Authority, those sums shall accrue to that Authority. **]** [10]

(13) In this section–

["authorised person" means—

(a) an officer of a local authority who is authorised in writing by the authority for the purpose of issuing notices under this section in relation to a relevant offence committed in the area of the authority;

(b) an officer of Loch Lomond and The Trossachs National Park Authority who is authorised in writing by the Authority for the purpose of issuing notices under this section in relation to a relevant offence committed in the area designated as the National Park for which the Authority is established; or

(c) such other persons as may be specified by order made by the Scottish Ministers;

] [11]

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39); and "area", in relation to a local authority, means the local government area (within the meaning of that Act) for which the council is constituted **[.]** [12]

[…][12]

[(13A) The Scottish Ministers may by order make such modifications of this section as they consider necessary or expedient in connection with the specification of a person by an order under paragraph (c) of the definition of "authorised person" in subsection (13) above.

(13B) An order under subsection (13A) above may include provision—

(a) applying any provision of this section to such a person with such modifications as may be specified in the order;

(b) for any such provision not to apply in relation to such a person.

] [13]

] [1]

Notes

1 Added by Antisocial Behaviour etc. (Scotland) Act 2004 asp 8 (Scottish Act) Pt 6 s.55 (November 5, 2004)

2 Words substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(a)(i) (June 30, 2014)

3 Words repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(a)(ii) (June 30, 2014)

4 Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(a)(ii) (June 30, 2014)

5 Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(b) (June 30, 2014)

6 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(c) (June 30, 2014)

7 Figure substituted by Litter (Fixed Penalties) (Scotland) Order 2013/315 (Scottish SI) art.3(a) (April 1, 2014)

8 Words substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(d) (June 30, 2014)

9 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(e) (June 30, 2014)

10 Existing text renumbered as s.33A(12)(a) and s.33A(12)(b) inserted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(f) (June 30, 2014)

11 Definition substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(g)(i) (June 30, 2014)

12 Definition repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(g)(ii) (June 30, 2014)

13 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(2)(h) (June 30, 2014)

England and Wales

[33A Section 33 offences: investigation and enforcement costs

[(1) This section applies where a person is convicted of an offence—

(a) under section 33 above, in respect of a contravention of subsection (1) of that section;

(b) under [regulation 38(1) of the Environmental Permitting Regulations] [3] , in respect of a waste operation [or a mining waste operation] [4] .

] [2]

(2) The court by or before which the offender is convicted may make an order requiring him to pay to an enforcement authority a sum which appears to the court not to exceed the costs arising from–

(a) investigations of the enforcement authority which resulted in the conviction; and

(b) the seizure by the enforcement authority under section 34B below of a vehicle involved in the offence.

(3) The costs arising from the seizure of a vehicle as specified in subsection (2)(b) above may include the cost of disposing of the contents of the vehicle.

(4) The power of a court to make an order under this section is in addition to its power to make an order under section 18 of the Prosecution of Offences Act 1985 (award of costs against accused).

(5) In this section "enforcement authority" means the Environment Agency [, the Natural Resources Body for Wales] [5] or a waste collection authority .

] [1]

Notes

1 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.42(2) (October 18, 2005)

2 Substituted by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.5 (April 6, 2008)

3 Words substituted by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(6)(a) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

4 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(4) (July 7, 2009)

5 Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.209 (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Extent

Pt II s. 33A(1)-(8), (9)-(11)(b), (12), (13)-(13) definition of "authorised officer", (13) definition of "local authority"-(13) definition of "proper officer": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 33A(8A)-(8C), (11A)-(11A)(b), (12)(a)-(12)(b), (13) definition of "authorised person"-(13) definition of "authorised person" (c), (13A)-(13B)(b): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England and Wales

[33B Section 33 offences: clean-up costs

[(1) This section applies where a person is convicted of an offence—

(a) under section 33 above, in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste [or extractive waste] [3] ;

(b) under [regulation 38(1) of the Environmental Permitting Regulations] [4] , in respect of a contravention of [regulation 12] [4] of those Regulations consisting of the disposal of waste.

] [2]

(2) The reference in [section 133(a) of the Sentencing Code] [5] to loss or damage resulting from the offence includes costs incurred or to be incurred by a relevant person in–

(a) removing the waste deposited or disposed of in or on the land;

(b) taking other steps to eliminate or reduce the consequences of the deposit or disposal; or

(c) both.

(3) In subsection (2) above "relevant person" means–

(a) the Environment Agency;

[(aa) the Natural Resources Body for Wales; **]** [6]

(b) a waste collection authority;

(c) the occupier of the land;

(d) the owner of the land (within the meaning of section 78A(9) below).

(4) The reference in subsection (2) above to costs incurred does not, in the case of the Environment Agency **[** , the Natural Resources Body for Wales **]** [7] or a waste collection authority, include any costs which the Agency **[** , Body **]** [8] or authority has already recovered under section 59(8) below.

(5) **[** Subject to subsection (6) below, in **]** [9] relation to the costs referred to in subsection (2) above, **[** a reference in section 139(2) or (3) of the Sentencing Code **]** [10] to £5000 is instead to be construed as a reference to the amount of those costs (or, if the costs have not yet been incurred, the likely amount). **[…]**[9]

[(6) Subsection (5) above does not apply where a person (other than an establishment or undertaking) is convicted of a relevant offence within the meaning of section 33 above. **]** [9]

] [1]

Notes

1 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.43(1) (October 18, 2005)

2 Substituted by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.6 (April 6, 2008)

3 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(5) (July 7, 2009)

4 Words substituted by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(6)(b) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

5 Words substituted by Sentencing Act 2020 c. 17 Sch.24(1) para.116(2) (December 1, 2020: substitution has effect subject to savings and transitional provisions specified in 2020 c.17 s.410 and Sch.24 Part 7)

6 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.210(2) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

7 Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.210(3)(a) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

8 Word inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.210(3)(b) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

9 Amended by Waste Management (England and Wales) Regulations 2006/937 reg.2(3) (May 15, 2006)

10 Words substituted by Sentencing Act 2020 c. 17 Sch.24(1) para.116(3) (December 1, 2020: substitution has effect subject to savings and transitional provisions specified in 2020 c.17 s.410 and Sch.24 Part 7)

Extent

Pt II s. 33B(1)-(6): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England and Wales

[33C Section 33 offences: forfeiture of vehicles

[(1) This section applies where—

(a) subject to subsection (1A) below, a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste;

(b) a person is convicted of an offence under **[** regulation 38(1) of the Environmental Permitting Regulations **]** [3] in respect of a contravention of regulation 12 of those Regulations consisting of the disposal of waste.

] [2]

[(1A) This section does not apply where a person (other than an establishment or undertaking) is convicted of a relevant offence within the meaning of section 33 above. **]** [4]

(2) The court by or before which the offender is convicted may make an order under this section if–

(a) the court is satisfied that a vehicle was used in or for the purposes of the commission of the offence; and

(b) at the time of his conviction the offender has rights in the vehicle.

(3) An order under this section operates to deprive the offender of his rights in the vehicle (including its fuel) at the time of his conviction and to vest those rights in the relevant enforcement authority.

(4) In a case where a vehicle has been seized under section 34B below and the offender retains rights in any of the vehicle's contents, an order under this section may, if and to the extent that it so specifies, deprive the offender of those rights and vest them in the relevant enforcement authority.

(5) Where an order under this section is made, the relevant enforcement authority may take possession of the vehicle (if it has not already done so under section 34C below).

(6) The court may make an order under this section whether or not it also deals with the offender in any other way in respect of the offence of which he is convicted.

(7) In considering whether to make an order under this section a court must in particular have regard to–

(a) the value of the vehicle;

(b) the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making);
(c) the offender's need to use the vehicle for lawful purposes;
(d) whether, in a case where it appears to the court that the offender is engaged in a business which consists wholly or partly in activities which are unlawful by virtue of section 33 above, **[** or **[** regulation 38(1) or (2) of the Environmental Permitting Regulations **]** [3] , **]** [2] the making of the order is likely to inhibit the offender from engaging in further such activities.

(8) **[** section 153 of the Sentencing Code **]** [5] (power to deprive offender of property) does not apply in any case where this section applies.

(9) For the purposes of this section, where a vehicle or its contents have been seized under section 34B below in connection with the offence referred to in subsection (1) above, any transfer by the offender after the seizure and before his conviction of any of his rights in the vehicle or its contents is of no effect.

(10) In this section–
"relevant enforcement authority" means–
(a) the Environment Agency, where the proceedings in respect of the offence have been brought by or on behalf of the Agency **[…]**[6]
[(aa) the Natural Resources Body for Wales, where the proceedings in respect of the offence have been brought by or on behalf of that Body, or **]** [6]
(b) in any other case, the waste collection authority in whose area the offence was committed;
"vehicle" means any motor vehicle or trailer within the meaning of the Road Traffic Regulation Act 1984 or any mobile plant.
] [1]

Notes

1 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.44(1) (October 18, 2005)
2 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.7 (April 6, 2008)
3 Amended in relation to England and Wales by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5 (April 6, 2010 immediately after the coming into force of SI 2009/3381)
4 Amended by Waste Management (England and Wales) Regulations 2006/937 reg.2(4) (May 15, 2006)
5 Words substituted by Sentencing Act 2020 c. 17 Sch.24(1) para.117 (December 1, 2020: substitution has effect subject to savings and transitional provisions specified in 2020 c.17 s.410 and Sch.24 Part 7)
6 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.211 (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Extent

Pt II s. 33C(1)-(10) definition of "vehicle": England, Wales, Scotland

Duty of care etc. as respects waste

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force With Amendments Pending

Scotland

34.— Duty of care etc. as respects waste.

(1) Subject to subsection (2) below, it shall be the duty of any person who imports, produces, **[** keeps or manages **]** [1] controlled waste or, as a broker **[** or dealer **]** [2] , has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of section 33 above;

[(aa) to prevent a contravention by any other person of regulation 11 of the Pollution Prevention and Control (Scotland) Regulations 2012, or of a condition of a permit granted under those Regulations; **]** [3]

[(ab) to prevent any contravention by any other person of subsection (2A), (2E), (2F), (2I) or (2K); **]** [1]

(b) to prevent the escape of the waste from his control or that of any other person; **[…]**[2]

[(ba) on the transfer of any waste oil, to ensure that **[** it is collected separately from other types of waste so as to facilitate a specific treatment, **]** [1] **[** unless doing so is not technically feasible, taking into account good practices **]** [4] ; and **]** [2]

(c) on the transfer of the waste, to secure—

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section **[** or any condition of a permit granted under regulation 7 of those Regulations, **]** [5] and to comply with the duty under this subsection as respects the escape of waste.

[(2) An occupier of domestic property–

(a) shall, as respects the household waste produced on the property, take reasonable steps to secure that any transfer of waste is only to an authorised person or to a person for authorised transport purposes; and

(b) shall not otherwise be subject to the duty imposed by subsection (1) above.

] [6]

[(2A) It shall be the duty of any person who produces, keeps or manages controlled waste, or as a broker or dealer has control of such waste, to take all such measures available to that person as are reasonable in the circumstances to apply the waste hierarchy set out in **[** Article 4(1) of the Waste Framework Directive **]** [7] .

(2B) The duty in subsection (2A)—

(a) may be departed from where this is justified having regard to the overall impacts of the generation and management of such waste; and

(b) does not apply to an occupier of domestic property as respects the household waste produced on the property.

(2C) The Scottish Ministers may give guidance on the discharge of the duty in subsection (2A), including the circumstances in which that duty may be departed from under subsection (2B)(a).

(2D) A person seeking to discharge the duty in subsection (2A) must, in doing so, have regard to any guidance given under subsection (2C). **]** [2]

[(2E) It shall, from 1st January 2014, be the duty of any person who produces controlled waste (other than an occupier of domestic property as respects household waste produced on the property) to take all reasonable steps to ensure the separate collection of dry recyclable waste.

(2F) It shall, from 1st January 2014, be the duty of any person who controls or manages a food business that produces controlled waste to take all reasonable steps to ensure the separate collection of food waste produced by the business.

(2G) The duty in subsection (2F) does not apply to food waste—

(a) produced on premises in a rural area;

(b) produced in the period beginning on 1st January 2014 and ending on 31st December 2015—

(i) on premises in use as a hospital (as defined in section 108 of the National Health Service (Scotland) Act 1978); or

(ii) by a business that produces less than 50 kilograms of food waste a week;

(c) produced, on or after 1st January 2016, by a business that produces less than 5 kilograms of food waste a week;

(d) that includes catering waste that originates from means of transport operating internationally.

(2H) The duty in subsection (2F) may be departed from where food waste is mixed with other biodegradable waste to the extent that the mixed waste is presented for collection in a manner that ensures that the amount of food waste collected is not significantly less than would be the case were the wastes not mixed.

(2I) It shall be the duty of any person who transports controlled waste to collect and transport separately from other waste any waste presented—

(a) for collection in accordance with subsection (2E) or (2F);

(b) for collection in a receptacle provided under an arrangement made in accordance with section 45C(2) or (5).

(2J) The duties in subsection (2E) or (2I) may be departed from where dry recyclable waste is managed in such a manner as will ensure that—

[(a) the output is of comparable quantity and quality to that achieved through separate collection, and **]** [8]

(b) the waste is not mixed with other waste that cannot be recycled.

(2K) It shall, from 1st January 2016, be the duty of any person who produces food waste (other than an occupier of domestic property as respects household waste, or an occupier of property in a rural area as respects food waste, produced on such properties) to ensure that food waste is not deposited in a public drain or sewer, or in a drain or sewer that connects to a public drain or sewer.

(2L) It shall be the duty of any person who produces or manages controlled waste, or who as a broker or dealer has control of such waste, to take all reasonable steps to—

(a) ensure that the waste meets any quality standard for the management of material included in the waste;
(b) ensure that the waste is managed in a manner that promotes high quality recycling; and
(c) prevent any contravention by another person of this subsection.

] [1]

(3) The following are authorised persons for the purpose of subsection (1)(c) above—
(a) any authority which is a waste collection authority for the purposes of this Part;
(b) any person who is the holder of a waste management licence under section 35 below **[.]** [9]
(c)-(f) **[…]**[9]

[(3A) The Secretary of State may by regulations amend subsection (3) above so as to add, whether generally or in such circumstances as may be prescribed in the regulations, any person specified in the regulations, or any description of person so specified, to the persons who are authorised persons for the purposes of subsection (1)(c) above. **]** [10]

(4) The following are authorised transport purposes for the purposes of subsection (1)(c) above—
(a) the transport of controlled waste within the same premises between different places in those premises;
(b) the transport to a place in Great Britain of controlled waste which has been brought from a country or territory outside Great Britain not having been landed in Great Britain until it arrives at that place; and
(c) the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain;

and "transport" has the same meaning in this subsection as in the Control of Pollution (Amendment) Act 1989.

[(4A) For the purposes of subsection (1)(c)(ii) above—
(a) a transfer of waste in stages shall be treated as taking place when the first stage of the transfer takes place, and
(b) a series of transfers between the same parties of waste of the same description shall be treated as a single transfer taking place when the first of the transfers in the series takes place.

] [11]

[(4AB) In subsection (1)(c), a reference to a written description of the waste includes a description that is—
(a) transmitted by electronic means;
(b) received in legible form; and
(c) capable of being used for subsequent reference.

] [1]

[(4B) In this section—
["business" includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994[12] or any other public authority;
"drain" , "public drain" , "public sewer" and "sewer" have the same meanings as in section 59 of the Sewerage (Scotland) Act 1968[13] ;

"food business" means an undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the processing, distribution, preparation or sale of food;

"rural area" means a remote small town, accessible rural area or remote rural area as described by reference to postcode units in table 2 of "Defining Rural Areas and Non-Rural Areas to support Zero Waste Policies"[14], published by the Scottish Government on 13th March 2012; **]** [1]

"waste oil" means any mineral or synthetic lubrication or industrial oil which has become unfit for the use for which it was originally intended, such as used combustion engine oil and gearbox oil, lubricating oil, oil for turbines and hydraulic oil.

] [2]

(5) The Secretary of State may, by regulations, make provision imposing requirements on any person who is subject to **[** a duty imposed by subsection (1), (2E), (2F), (2I), (2K) or (2L) **]** [1] above as respects the making and retention of documents and the furnishing of documents or copies of documents.

(6) Any person who fails **[** without reasonable excuse **]** [1] to comply with the **[** duties imposed by subsections (1) **[** , (2A), (2E), (2F), (2I), (2K) or (2L) **]** [1] **]** [2] above or with any requirement imposed under subsection (5) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(7) The Secretary of State shall, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing to persons practical guidance on how to discharge the **[** duty imposed on them by subsection (1), (2E), (2F), (2I), (2K) or (2L) **]** [1] .

(8) The Secretary of State may from time to time revise a code of practice issued under subsection (7) above by revoking, amending or adding to the provisions of the code.

(9) **[** A **]** [15] code of practice prepared in pursuance of subsection (7) above shall be laid **[…]**[16] .

[(a) before both Houses of Parliament **[** ;or **]** [17] **]** [16]

[(b) if it relates to Scotland before the Scottish Parliament. **]** [17]

(10) A code of practice issued under subsection (7) above shall be admissible in evidence and if any provision of such a code appears to the court to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(11) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

Notes

1 Amended by Waste (Scotland) Regulations 2012/148 (Scottish SI) reg.2(3) (May 17, 2012)

2 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(4) (March 27, 2011)

3 Substituted by Pollution Prevention and Control (Scotland) Regulations 2012/360 (Scottish SI) Sch.11(1) para.1(3) (January 7, 2013: substitution has effect subject to transitional provisions specified in SSI 2012/360 reg.72 and Sch.10)

4 Words substituted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) Pt 2 reg.2(3)(a) (December 4, 2020)

5 Amended by Pollution Prevention and Control (Scotland) Regulations 2000/323 (Scottish SI) Sch.10(1) para.3(3) (September 28, 2000)

[6] Substituted by Waste (Scotland) Regulations 2005/22 (Scottish SI) reg.3(3) (January 21, 2005)

[7] Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(3) (March 20, 2019)

[8] Substituted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) Pt 2 reg.2(3)(b) (December 4, 2020)

[9] Repealed by Environmental Protection Act 1990 c. 43 Sch.16(II) para.1 (April 1, 2015: as SSI 2015/72)

[10] Added by Environment Act 1995 c. 25 Sch.22 para.65 (April 1, 1996)

[11] Added by Deregulation and Contracting Out Act 1994 c. 40 Pt I c.II s.33(1) (April 1, 1992: deemed always to have had effect, with savings in 1994 c.40 s.33(2))

[12] Section 2 was amended by paragraph 232 of Schedule 22 to the Environment Act 1995 (c.25).

[13] Section 59 was amended by Schedule 29 to the Local Government (Scotland) Act 1973 (c.65), by paragraph 64 of Schedule 9 to the Roads (Scotland) Act 1984 (c.54), by section 23 of and Schedule 6 to the Abolition of Domestic Rates etc. (Scotland) Act 1987 (c.47), by paragraph 103 of Schedule 8 to the New Roads and Street Works Act 1991 (c.22), by paragraph 14 of Schedule 1 and paragraph 75 of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), by paragraph 3 of schedule 3 to the Regulation of Care (Scotland) Act 2001 (asp 8), by paragraph 1 of Schedule 24 to the Environment Act 1995 (c.25), by paragraph 41 of schedule 5 to the Water Industry (Scotland) Act 2002 (asp 3), by section 33 of and paragraph 23 of schedule 3 to the Water Industry and Water Services (Scotland) Act 2003 (asp 3), and by S.S.I. 2011/211.

[14] ISBN 978-1-78045-732-1. A postcode unit is an area in relation to which a single postcode is used to facilitate the identification of postal deliveryu points within the area. A copy of the publication can be obtained form http://www.scotland.gov.uk/Resource/0038/00389689.pdf.

[15] Words substituted by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 Sch.2(I) para.102(2)(a) (July 1, 1999 the principal appointed day for 1998 c.46)

[16] Words inserted by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 Sch.2(I) para.102(2)(b) (July 1, 1999 the principal appointed day for 1998 c.46)

[17] Added by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 Sch.2(I) para.102(2)(c) (July 1, 1999 the principal appointed day for 1998 c.46)

England and Wales

[34.— Duty of care etc. as respects waste.

(1) Subject to subsection (2) below, it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, [as a dealer or broker][2] , has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of section 33 above;

[(aa) to prevent any contravention by any other person of [regulation 12 of the Environmental Permitting Regulations][4] or of a condition of an environmental permit;][3]

(b) to prevent the escape of the waste from his control or that of any other person; and

(c) on the transfer of the waste, to secure—

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section [or [regulation 12 of the Environmental Permitting Regulations][4] , or a contravention of a condition of an

environmental permit,]3 and to comply with the duty under this subsection as respects the escape of waste.

[(1A) It shall be the duty of any person who is responsible for the management of extractive waste to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of section 33 above;

(b) to prevent any contravention by another person of regulation 12 of the 2007 Regulations or of a condition of an environmental permit; and

(c) to prevent the escape of the waste from his control or that of any other person.

]5

(2) The duty imposed by subsection (1) above does not apply to an occupier of domestic property as respects the household waste produced on the property.

[(2A) It shall be the duty of the occupier of any domestic property in England [or Wales]7 to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes.]6

(3) The following are authorised persons for the [purposes of subsections (1)(c) and (2A)]6 above—

(a) any authority which is a waste collection authority for the purposes of this Part;

[(b) any person who is the holder of an environmental permit in relation to a waste operation;]3

[(ba) any person who is carrying on an exempt waste operation;]3

(c) any person to whom section 33(1) above does not apply by virtue of regulations under subsection (3) of that section [or by virtue of regulations under section 2 of the Pollution Prevention and Control Act 1999]2 ;

(d) any person registered as a carrier of controlled waste under section 2 of the Control of Pollution (Amendment) Act 1989;

(e) any person who is not required to be so registered by virtue of regulations under section 1(3) of that Act; and

(f) a waste disposal authority in Scotland.

(3A) The Secretary of State may by regulations amend subsection (3) above so as to add, whether generally or in such circumstances as may be prescribed in the regulations, any person specified in the regulations, or any description of person so specified, to the persons who are authorised persons for the purposes of [subsections (1)(c) and (2A)]6 above.

(4) The following are authorised transport purposes for the purposes of [subsections (1)(c) and (2A)]6 above—

(a) the transport of controlled waste within the same premises between different places in those premises;

(b) the transport to a place in Great Britain of controlled waste which has been brought from a country or territory outside Great Britain not having been landed in Great Britain until it arrives at that place; and

(c) the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain;

and "transport" has the same meaning in this subsection as in the Control of Pollution (Amendment) Act 1989.

(4A) For the purposes of subsection (1)(c)(ii) above—

(a) a transfer of waste in stages shall be treated as taking place when the first stage of the transfer takes place, and

(b) a series of transfers between the same parties of waste of the same description shall be treated as a single transfer taking place when the first of the transfers in the series takes place.

(5) The Secretary of State may, by regulations, make provision imposing requirements on any person who is subject to the duty imposed by subsection (1) above as respects the making and retention of documents and the furnishing of documents or copies of documents.

(6) Any person who fails to comply with the duty imposed by subsection (1) **[** , (1A) **]** [5] **[** or (2A) **]** [6] above or with any requirement imposed under subsection (5) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(7) The Secretary of State shall, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing to persons practical guidance on how to discharge the duty imposed on them by subsection (1) above.

(8) The Secretary of State may from time to time revise a code of practice issued under subsection (7) above by revoking, amending or adding to the provisions of the code.

(9) A code of practice prepared in pursuance of subsection (7) above shall be laid .

(a) before both Houses of Parliament ;or

(b) if it relates to Scotland before the Scottish Parliament.

(10) A code of practice issued under subsection (7) above shall be admissible in evidence and if any provision of such a code appears to the court to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(11) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

] [1]

Notes

1 Added by Pollution Prevention and Control (England and Wales) Regulations 2000/1973 Sch.10(1) para.4(a) (August 1, 2000)

2 Amended by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3 (March 29, 2011)

3 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.8 (April 6, 2008)

4 Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(4)(b) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

5 Amended by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(6) (July 7, 2009)

6 Amended by Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005/2900 reg.2 (November 21, 2005)

7 Words inserted by Waste (Household Waste Duty of Care) (Wales) Regulations 2006/123 reg.2(1) (January 26, 2006)

Amendments Pending

Pt II s. 34(3)(b): repealed by Environmental Protection Act 1990 c. 43 Sch. 16(II) para. 1 (date to be appointed)

Commencement

Pt II s. 34(1A): Date not available (SI 1991/2829 art. 4)

Pt II s. 34(1)-(2): April 1, 1992 (SI 1991/2829 art. 4)

Pt II s. 34(2A): Date not available

Pt II s. 34(2B)-(2L): Date not available

Pt II s. 34(3): April 1, 1992 (SI 1991/2829 art. 4)

Pt II s. 34(3A): Date not available

Pt II s. 34(4): April 1, 1992 (SI 1991/2829 art. 4)

Pt II s. 34(4A): Date not available

Pt II s. 34(4AB)-(4B): Date not available

Pt II s. 34(5): December 13, 1991 (SI 1991/2829 art. 2)

Pt II s. 34(6): April 1, 1992 (SI 1991/2829 art. 4)

Pt II s. 34(7)-(9): December 13, 1991 (SI 1991/2829 art. 2)

Pt II s. 34(10): April 1, 1992 (SI 1991/2829 art. 4)

Pt II s. 34(11): December 13, 1991 (SI 1991/2829 art. 2)

Pt II s. 34(c): Date not available

Extent

Pt II s. 34(2), (3)-(4A)(b), (5)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 34(2)(a)-(2L)(c), (4AB)-(4B) definition of "waste oil": England, Wales, Scotland

---

Law In Force With Amendments Pending

[34ZA.— Fixed penalty notices: offences under section 34(6) relating to section 34(2A): England

(1) This section applies where it appears to an enforcement authority in England that a person has failed to comply with the duty relating to the transfer of household waste in section 34(2A) in England.

(2) The authority may give to that person a notice offering the opportunity of discharging any liability to conviction for an offence under section 34(6) by payment of a fixed penalty.

(3) An authority may not give a person a notice under subsection (2) if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence.

(4) Where a waste collection authority (A) gives a notice to a person under subsection (2), A must, at the time of giving the notice—

(a) give the Environment Agency a copy of the notice; and

(b) where it appears to A that the failure to comply with the duty in section 34(2A) took place in the area of another waste collection authority (B), give B a copy of the notice.

(5) Where the Environment Agency gives a notice to a person under subsection (2), the Agency must, at the time of giving the notice, give a copy of the notice to the waste collection authority in whose area the failure to comply with the duty in section 34(2A) took place.

(6) Where a person is given a notice under subsection (2) in respect of an offence—

(a) no proceedings may be instituted for that offence before the end of the period of 14 days following the date of the notice; and

(b) the person may not be convicted of the offence if the fixed penalty is paid before the end of that period.

(7) The fixed penalty payable to an enforcement authority under this section is—

(a) the amount specified by the authority in respect of the offence; or

(b) if no amount is specified by the authority, £200.

(8) The amount specified by an authority in respect of the offence under subsection (7)(a) must not be less than £150 or more than £400.

(9) The enforcement authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount of not less than £120 is paid within the period of 10 days following the date on which notice is given under this section.

(10) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(11) A notice under this section must also—

(a) state the period during which, by virtue of subsection (6)(a), proceedings will not be instituted for the offence under section 34(6);

(b) state the period during which, by virtue of subsection (6)(b), payment of the fixed penalty will discharge any liability to conviction for the offence;

(c) state the amount of the fixed penalty;

(d) state any lesser amount payment of which, by virtue of subsection (9), is treated as payment of the fixed penalty, and the period for payment of the lesser amount;

(e) state the permissible methods of payment;

(f) explain that—

(i) the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and that the person is not required to accept that offer; and

(ii) the person is entitled to make representations to the authority about the allegations contained in the notice;

(g) state the address to which the person may send any representations;

(h) explain that, by virtue of subsection (3), an authority may not give a person a notice under this section if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence;

(i) state which other enforcement authorities the authority has sent a copy of the notice to in accordance with subsections (4) and (5).

(12) An enforcement authority may authorise in writing a person (an "authorised officer") to give a notice under this section on its behalf.

(13) An authorised officer may require an occupier of domestic property to give the occupier's name and address if the officer proposes to give the occupier a fixed penalty notice.

(14) A person commits an offence if the person—

(a) fails to give a name or address when required to do so under subsection (13), or

(b) gives a false or inaccurate name or address in response to a requirement under that subsection.

(15) A person guilty of an offence under subsection (14) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(16) In any proceedings a certificate which—

(a) purports to be signed on behalf of the chief finance officer of the enforcement authority; and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(17) In this section—

"chief finance officer", in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

"enforcement authority in England" means the Environment Agency or a waste collection authority in England.

] [1]

Notes

[1] Added by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 2 reg.3(2) (January 7, 2019)

Amendments Pending

Pt II s. 34ZA(9A): added by Environment Act 2021 c. 30, Pt 3 s. 69(4)(b) (date to be appointed)

Pt II s. 34ZA(9): words substituted by Environment Act 2021 c. 30, Pt 3 s. 69(4)(a) (date to be appointed)

Extent

Pt II s. 34ZA(1)-(17) definition of "enforcement authority in England": England, Wales

---

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force With Amendments Pending

Scotland

[NOTE: not yet in force otherwise.]

England and Wales

[34ZB.— Fixed penalty notices: offences under section 34(6) relating to section 34(2A): Wales

(1) This section applies where it appears to an enforcement authority in Wales that a person has failed to comply with the duty relating to the transfer of household waste in section 34(2A)[2] in Wales.

(2) The authority may give to that person a notice offering the opportunity of discharging any liability to conviction for an offence under section 34(6) by payment of a fixed penalty.

(3) An authority may not give a person a notice under subsection (2) if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence.

(4) Where a waste collection authority (A) gives a notice to a person under subsection (2) in relation to a failure to comply with the duty in section 34(2A) that took place in the area of another waste collection authority (B), A must, at the time of giving the notice, give a copy of the notice to B.

(5) Where the Natural Resources Body for Wales gives a notice to a person under subsection (2), the Body must, at the time of giving the notice, give a copy of the notice to the waste collection authority in whose area the failure to comply with the duty in section 34(2A) took place.

(6) Where a person is given a notice under subsection (2) in respect of an offence—

(a) no proceedings may be instituted for that offence before the end of the period of 14 days following the date of the notice; and

(b) the person may not be convicted of the offence if the fixed penalty is paid before the end of that period.

(7) The fixed penalty payable to an enforcement authority under this section is £300.

(8) An enforcement authority may make provision in a notice given under subsection (2) for treating the fixed penalty as having been paid if a lesser amount of £150 is paid before the end of the period of 10 days following the date of the notice.

(9) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(10) A notice under this section must also—

(a) state the period during which, by virtue of subsection (6)(a), proceedings will not be instituted for the offence under section 34(6);

(b) state the date on or before which, by virtue of subsection (6)(b), payment of the fixed penalty must be made in order to discharge any liability to conviction for the offence;

(c) state the amount of the fixed penalty;

(d) if the enforcement authority makes provision under subsection (8)—

(i) state the lesser amount, the payment of which is treated, by virtue of that subsection, as payment of the fixed penalty, and

(ii) state the date on or before which payment of the lesser amount must be made for it to be so treated;

(e) state the permissible methods of payment;

(f) state the person to whom, and the address at which, payment may be made;

(g) explain that—

(i) the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and that the person is not required to accept that offer, and

(ii) the person is entitled to make representations to the authority about the allegations contained in the notice;

(h) state the address to which the person may send any representations;

(i) explain that, by virtue of subsection (3), an authority may not give a person a notice under this section if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence;

(j) state the other enforcement authorities to which the authority has sent a copy of the notice in accordance with subsections (4) and (5).

(11) An enforcement authority may authorise in writing a person (an "authorised officer") to give a notice under this section on its behalf.

(12) Where an authorised officer proposes to give a person a notice under subsection (2), the officer may require that person to give their name and address.

(13) A person commits an offence if the person—

(a) fails to give a name or address when required to do so under subsection (12), or

(b) gives a false or inaccurate name or address in response to a requirement under that subsection.

(14) A person guilty of an offence under subsection (13) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(15) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of an enforcement authority to whom a fixed penalty is payable pursuant to a notice under this section; and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(16) In this section—

"chief finance officer", in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

"enforcement authority in Wales" means the Natural Resources Body for Wales or a waste collection authority in Wales.

] [1]

Notes

[1] Added by Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019/331 reg.2(2) (February 21, 2019)

[2] Section 34 was amended by S.I. 2005/2900, 2006/123 (W. 16), 2007/3538, 2011/988. There are other amending instruments but none is relevant.

Amendments Pending

Pt II s. 34ZB(8A): added by Environment Act 2021 c. 30, Pt 3 s. 69(5)(b) (date to be appointed)

Pt II s. 34ZB(8): words substituted by Environment Act 2021 c. 30, Pt 3 s. 69(5)(a) (date to be appointed)

Extent

Pt II s. 34ZB(1)-(16) definition of "enforcement authority in Wales": England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[34A Fixed penalty notices for certain offences under section 34

(1) This section applies where it appears to an enforcement authority that a person has failed to comply with a duty to furnish documents to that authority imposed under regulations made at any time under section 34(5) above.

(2) The authority may serve on that person a notice offering him the opportunity of discharging any liability to conviction for an offence under section 34(6) above by payment of a fixed penalty.

(3) Where a person is given a notice under this section in respect of an offence–

(a) no proceedings may be instituted for that offence before expiration of the period of fourteen days following the date of the notice; and

(b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of the period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this section must also state–

(a) the period during which, by virtue of subsection (3) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) above at the address so mentioned.

(7) Where a letter is sent in accordance with subsection (6) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(9) The fixed penalty payable to an enforcement authority under this section is, subject to subsection (10) below, £300.

(10) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (9) above.

(11) The enforcement authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(12) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, an enforcement authority may make provision under subsection (11) above.

(13) In any proceedings a certificate which–

(a) purports to be signed on behalf of the chief finance officer of the enforcement authority, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(14) In this section–

"chief finance officer", in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

"enforcement authority" means the Environment Agency **[**, the Natural Resources Body for Wales **]** [2] or a waste collection authority .

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.45 (April 6, 2006 as SI 2006/795)

[2] Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.212 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Wales

[34A Fixed penalty notices for certain offences under section 34

(1) This section applies where it appears to an enforcement authority that a person has failed to comply with a duty to furnish documents to that authority imposed under regulations made at any time under section 34(5) above.

(2) The authority may serve on that person a notice offering him the opportunity of discharging any liability to conviction for an offence under section 34(6) above by payment of a fixed penalty.

(3) Where a person is given a notice under this section in respect of an offence–

(a) no proceedings may be instituted for that offence before expiration of the period of fourteen days following the date of the notice; and

(b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of the period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this section must also state–

(a) the period during which, by virtue of subsection (3) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) above at the address so mentioned.

(7) Where a letter is sent in accordance with subsection (6) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(9) The fixed penalty payable to an enforcement authority under this section is, subject to subsection (10) below, £300.

(10) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (9) above.

(11) The enforcement authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(12) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, an enforcement authority may make provision under subsection (11) above.

(13) In any proceedings a certificate which–

(a) purports to be signed on behalf of the chief finance officer of the enforcement authority, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(14) In this section–

"chief finance officer", in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

"enforcement authority" means the Environment Agency **[** , the Natural Resources Body for Wales **]** [2] or a waste collection authority .

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.45 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

[2] Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.212 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Extent

Pt II s. 34A(1)-(10), (13)-(14) definition of "enforcement authority": England, Wales, Scotland

Pt II s. 34A(11)-(12): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

[Offences under sections 33 and 34: powers of seizure etc] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(1) (March 16, 2006 as SI 2006/768)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force With Amendments Pending

Scotland

[NOTE: not yet in force otherwise.]

England

[34B Power to search and seize vehicles etc

(1) This section applies where an authorised officer of an enforcement authority or a constable reasonably believes that the grounds in subsection (2) or (3) below exist.

(2) The grounds in this subsection are that–

(a) [a relevant offence] [2] has been committed [, or an offence under regulation 38(1)(a) or (b) of the 2007 Regulations has been committed in relation to a waste operation] [3] ,

(b) a vehicle was used in the commission of the offence, and

(c) proceedings for the offence have not yet been brought against any person.

(3) The grounds in this subsection are that–

(a) [a relevant offence] [2] is being or is about to be committed, [or an offence under regulation 38(1)(a) or (b) of the 2007 Regulations is being or is about to be committed in relation to a waste operation,] [3] and

(b) a vehicle is being or is about to be used in the commission of the offence.

(4) The authorised officer or constable may–

(a) search the vehicle;

(b) seize the vehicle and any of its contents.

(5) In acting under subsection (4) above the authorised officer or constable may–

(a) stop the vehicle (but only a constable in uniform may stop a vehicle on any road);

(b) enter any premises for the purpose of searching or seizing the vehicle.

(6) A vehicle or its contents seized under subsection (4) above–

(a) by an authorised officer of an enforcement authority, are seized on behalf of that authority;

(b) by a constable in the presence of an authorised officer of an enforcement authority, are seized on behalf of that authority;

(c) by a constable without such an officer present, are seized on behalf of the waste collection authority in whose area the seizure takes place.

(7) A person commits an offence if–

(a) he fails without reasonable excuse to give any assistance that an authorised officer or constable may reasonably request in the exercise of a power under subsection (4) or (5) above;

(b) he otherwise intentionally obstructs an authorised officer or constable in exercising that power.

(8) Where an authorised officer or constable has stopped a vehicle under subsection (5)(a) above, he may require any occupant of the vehicle to give him–

(a) the occupant's name and address;

(b) the name and address of the registered owner of the vehicle;

(c) any other information he may reasonably request.

(9) A person commits an offence if–

(a) he fails without reasonable excuse to comply with a requirement under subsection (8) above;

(b) he gives information required under that subsection that is–

(i) to his knowledge false or misleading in a material way, or

(ii) given recklessly and is false or misleading in a material way.

(10) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(11) In this section and section 34C below–

"authorised officer" means an officer of an enforcement authority who is authorised in writing by the authority for the purposes of this section;

"enforcement authority" means–

(a) the Environment Agency, or

(b) a waste collection authority;

["relevant offence" means—

(a) an offence under section 33 above, or

(b) an offence under section 34 above consisting of a failure to comply with the duty imposed by subsection (1) of that section;

] [4]

"road" has the same meaning as in the Road Traffic Regulation Act 1984;

"vehicle" means any motor vehicle or trailer within the meaning of that Act or any mobile plant.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(1) (March 3, 2015: insertion has effect on March 3, 2015 in relation to England for the purpose of making regulations and issuing guidance; April 6, 2015 otherwise)

[2] Words substituted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46 (March 3, 2015: substitution has effect on March 3, 2015 in relation to England for the purpose of making regulations and issuing guidance; April 6, 2015 otherwise)

[3] Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.9 (March 3, 2015: amendment came into force on April 6, 2008 but could not take effect until the commencement of 2005 c.16 s.46(1) in relation to England on March3, 2015 for the purpose of making regulations and issuing guidance; April 6, 2015 otherwise)

[4] Definition inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46 (March 3, 2015: substitution has effect on March 3, 2015 in relation to England for the purpose of making regulations and issuing guidance; April 6, 2015 otherwise)

Wales

[34B Power to search and seize vehicles etc

(1) This section applies where an authorised officer of an enforcement authority or a constable reasonably believes that the grounds in subsection (2) or (3) below exist.

(2) The grounds in this subsection are that–

(a) **[** a relevant offence **]** [2] has been committed **[**, or an offence under **[** regulation 38(1) or (2) of the Environmental Permitting Regulations **]** [4] has been committed in relation to a waste operation **]** [3] ,

(b) a vehicle was used in the commission of the offence, and

(c) proceedings for the offence have not yet been brought against any person.

(3) The grounds in this subsection are that–

(a) **[** a relevant offence **]** [2] is being or is about to be committed, **[** or an offence under **[** regulation 38(1) or (2) of the Environmental Permitting Regulations **]** [4] is being or is about to be committed in relation to a waste operation, **]** [3] and

(b) a vehicle is being or is about to be used in the commission of the offence.

(4) The authorised officer or constable may–

(a) search the vehicle;

(b) seize the vehicle and any of its contents.

(5) In acting under subsection (4) above the authorised officer or constable may–

(a) stop the vehicle (but only a constable in uniform may stop a vehicle on any road);

(b) enter any premises for the purpose of searching or seizing the vehicle.

(6) A vehicle or its contents seized under subsection (4) above–

(a) by an authorised officer of an enforcement authority, are seized on behalf of that authority;
(b) by a constable in the presence of an authorised officer of an enforcement authority, are seized on behalf of that authority;
(c) by a constable without such an officer present, are seized on behalf of the waste collection authority in whose area the seizure takes place.

(7) A person commits an offence if–
(a) he fails without reasonable excuse to give any assistance that an authorised officer or constable may reasonably request in the exercise of a power under subsection (4) or (5) above;
(b) he otherwise intentionally obstructs an authorised officer or constable in exercising that power.

(8) Where an authorised officer or constable has stopped a vehicle under subsection (5)(a) above, he may require any occupant of the vehicle to give him–
(a) the occupant's name and address;
(b) the name and address of the registered owner of the vehicle;
(c) any other information he may reasonably request.

(9) A person commits an offence if–
(a) he fails without reasonable excuse to comply with a requirement under subsection (8) above;
(b) he gives information required under that subsection that is–
(i) to his knowledge false or misleading in a material way, or
(ii) given recklessly and is false or misleading in a material way.

(10) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(11) In this section and section 34C below–
"authorised officer" means an officer of an enforcement authority who is authorised in writing by the authority for the purposes of this section;
"enforcement authority" means–
(a) the Environment Agency, **[…]**[5]
[(aa) the Natural Resources Body for Wales, or **]** [5]
(b) a waste collection authority;
["relevant offence" means—
(a) an offence under section 33 above, or
(b) an offence under section 34 above consisting of a failure to comply with the duty imposed by subsection (1) of that section;
] [6]
"road" has the same meaning as in the Road Traffic Regulation Act 1984;
"vehicle" means any motor vehicle or trailer within the meaning of that Act or any mobile plant.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(1) (March 16, 2006 as SI 2006/768)

[2] Words substituted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46 (March 16, 2006: substitution came into force on November 21, 2005, but could not take effect until the commencement of 2005 c.16 s.46 on March 16, 2006)

[3] Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.9 (April 6, 2008)

[4] Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(8) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

[5] Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.213 (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[6] Definition inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46 (March 16, 2006: insertion came into force on November 21, 2005, but could not take effect until the commencement of 2005 c.16 s.46 on March 16, 2006)

Amendments Pending

Pt II s. 34B: amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch. 26(1) para. 5(8) (date to be appointed: substitution came into force on April 6, 2010, but cannot take effect until the commencement of 1990 c.43 s.34B in relation to England)

Pt II s. 34B(6)(c): words substituted by Environment Act 2021 c. 30, Sch. 10 para. 2(b) (January 9, 2022)

Pt II s. 34B(6)(b): words inserted by Environment Act 2021 c. 30, Sch. 10 para. 2(a) (January 9, 2022)

Extent

Pt II s. 34B(1)-(11) definition of "vehicle": England, Wales, Scotland

---

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[34C Seizure of vehicles etc: supplementary

(1) Where under section 34B above an authorised officer or constable seizes a vehicle or its contents ("seized property") on behalf of an enforcement authority, the authority may remove the seized property to such a place as it considers appropriate.

(2) An enforcement authority must deal with any seized property in accordance with regulations made by the appropriate person.

(3) Regulations under subsection (2) above may in particular include provision as to–

(a) the duties of enforcement authorities in relation to the safe custody of seized property;
(b) the circumstances in which they must return any such property to a person claiming entitlement to it;
(c) the manner in which such persons, and the seized property to which they are entitled, may be determined;
(d) the circumstances in which an enforcement authority may sell, destroy or otherwise dispose of seized property;
(e) the uses to which the proceeds of any such sale may be put.

(4) Regulations making provision under subsection (3)(d) above–
(a) must (subject to paragraph (c) below) require the enforcement authority to publish a notice in such form, and to take any other steps, as may be specified in the regulations for informing persons who may be entitled to the seized property that it has been seized and is available to be claimed;
(b) must (subject to paragraph (c) below) prohibit the authority from selling, destroying or otherwise disposing of any seized property unless a period specified in the regulations has expired without any obligation arising under the regulations for the authority to return the property to any person;
(c) may allow for the requirements in paragraphs (a) and (b) above to be dispensed with if the condition of the seized property requires its disposal without delay.

(5) The appropriate person may issue guidance to enforcement authorities in relation to the performance of their functions under regulations under subsection (2) above.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(1) (March 3, 2015: insertion has effect on March 3, 2015 in relation to England for the purpose of making regulations and issuing guidance; April 6, 2015 otherwise)

Wales

[34C Seizure of vehicles etc: supplementary

(1) Where under section 34B above an authorised officer or constable seizes a vehicle or its contents ("seized property") on behalf of an enforcement authority, the authority may remove the seized property to such a place as it considers appropriate.

(2) An enforcement authority must deal with any seized property in accordance with regulations made by the appropriate person.

(3) Regulations under subsection (2) above may in particular include provision as to–
(a) the duties of enforcement authorities in relation to the safe custody of seized property;
(b) the circumstances in which they must return any such property to a person claiming entitlement to it;
(c) the manner in which such persons, and the seized property to which they are entitled, may be determined;

(d) the circumstances in which an enforcement authority may sell, destroy or otherwise dispose of seized property;

(e) the uses to which the proceeds of any such sale may be put.

(4) Regulations making provision under subsection (3)(d) above–

(a) must (subject to paragraph (c) below) require the enforcement authority to publish a notice in such form, and to take any other steps, as may be specified in the regulations for informing persons who may be entitled to the seized property that it has been seized and is available to be claimed;

(b) must (subject to paragraph (c) below) prohibit the authority from selling, destroying or otherwise disposing of any seized property unless a period specified in the regulations has expired without any obligation arising under the regulations for the authority to return the property to any person;

(c) may allow for the requirements in paragraphs (a) and (b) above to be dispensed with if the condition of the seized property requires its disposal without delay.

(5) The appropriate person may issue guidance to enforcement authorities in relation to the performance of their functions under regulations under subsection (2) above.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(1) (March 16, 2006 as SI 2006/768)

Extent

Pt II s. 34C(1)-(5): England, Wales, Scotland

[Wales: disposal of food waste] [1]

Notes

[1] Added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s.66(1) (date to be appointed)

Not Yet In Force

[34D Prohibition on disposal of food waste to sewer

(1) An occupier of premises in Wales must not—

(a) discharge food waste produced on or brought onto the premises, or

(b) knowingly cause or knowingly permit food waste produced on or brought onto the premises to be discharged, into a public sewer or a sewer or drain communicating with a public sewer.

(2) Subsection (1) does not apply to an occupier of premises within paragraph (a) or (b) of section 75(5) (domestic property and caravans).

(3) A person commits an offence if, without reasonable excuse, the person contravenes subsection (1).

(4) A person who commits an offence under subsection (3) is liable on summary conviction, or on conviction on indictment, to a fine.

(5) In subsection (1)—

"food waste" means controlled waste that—

(a) has at any time been food (which for this purpose does not include drink) intended for human consumption, or

(b) is biodegradable waste arising from the processing or preparation of food or drink,

but does not include waste that is mixed with water or any other liquid as a result of the water or liquid having been used to clean any place or equipment used in processing or preparing food or drink;

"drain" , "public sewer" and "sewer" have the meanings given in section 219(1) of the Water Industry Act 1991.

(6) The Welsh Ministers may by regulations—

(a) provide for subsection (1) to apply only in circumstances specified in the regulations;

(b) make provision (which may include provision amending this section) for subsection (1) to apply subject to exceptions in addition to those in subsection (2);

(c) amend the definition of "food waste" in subsection (5).

(7) Regulations under subsection (6)(a) or (b) may make different provision for different purposes, different cases (including different persons, premises or types of food waste) and different areas. **]** [1]

Notes

[1] Added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s.66(1) (date to be appointed)

Extent

Pt II s. 34D(1)-(7): England, Wales, Scotland

Waste Management Licences

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

35.— Waste management licences: general.

(1) A waste management licence is a licence granted by a waste regulation authority authorising the treatment, keeping or disposal of any specified description of controlled waste in or on specified land or the treatment or disposal of any specified description of controlled waste by means of specified mobile plant.

(2) A licence shall be granted to the following person, that is to say—

(a) in the case of a licence relating to the treatment, keeping or disposal of waste in or on land, to the person who is in occupation of the land; and

(b) in the case of a licence relating to the treatment or disposal of waste by means of mobile plant, to the person who operates the plant.

(3) A licence shall be granted on such terms and subject to such conditions as appear to the waste regulation authority to be appropriate and the conditions may relate—

(a) to the activities which the licence authorises, **[…]**[1]

(b) to the precautions to be taken and works to be carried out in connection with or in consequence of those activities;

[(c) to the location of the boundaries of the specified land; **]** [1]

and accordingly requirements may be imposed in the licence which are to be complied with before the activities which the licence authorises have begun or after the activities which the licence authorises have ceased.

(4) Conditions may require the holder of a licence to carry out works or do other things notwithstanding that he is not entitled to carry out the works or do the thing and any person whose consent would be required shall grant, or join in granting, the holder of the licence such rights in relation to the land as will enable the holder of the licence to comply with any requirements imposed on him by the licence.

(5) Conditions may relate, where waste other than controlled waste is to be treated, kept or disposed of, to the treatment, keeping or disposal of that other waste.

(6) The Secretary of State may, by regulations, make provision as to the conditions which are, or are not, to be included in a licence; and regulations under this subsection may make different provision for different circumstances.

(7) The Secretary of State may, as respects any licence for which an application is made to a waste regulation authority, give to the authority directions as to the terms and conditions which are, or are not, to be included in the licence; and it shall be the duty of the authority to give effect to the directions.

[(7A) In any case where—

(a) an entry is required under this section to be made in any record as to the observance of any condition of a licence, and

(b) the entry has not been made,

that fact shall be admissible as evidence that that condition has not been observed.

(7B) Any person who—

(a) intentionally makes a false entry in any record required to be kept under any condition of a licence, or

(b) with intent to deceive, forges or uses a licence or makes or has in his possession a document so closely resembling a licence as to be likely to deceive,

shall be guilty of an offence.

(7C) A person guilty of an offence under subsection (7B) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

] [2]

(8) It shall be the duty of waste regulation authorities to have regard to any guidance issued to them by the Secretary of State with respect to the discharge of their functions in relation to licences.

(9) A licence may not be surrendered by the holder except in accordance with section 39 below.

(10) A licence is not transferable by the holder but the waste regulation authority may transfer it to another person under section 40 below.

(11) A licence shall continue in force until **[** it ceases to have effect under subsection (11A) below, **]** [3] it is revoked entirely by the waste regulation authority under section 38 below or it is surrendered or its surrender is accepted under section 39 below.

[(11A) A licence shall cease to have effect if and to the extent that the treatment, keeping or disposal of waste authorised by the licence is authorised by a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999 **[** or by an authorisation under regulations under section 18 of the Regulatory Reform (Scotland) Act 2014 **]** [4] . **]** [3]

(12) In this Part "licence" means a waste management licence and "site licence" and "mobile plant licence" mean, respectively, a licence authorising the treatment, keeping or disposal of waste in or on land and a licence authorising the treatment or disposal of waste by means of mobile plant.

Notes

1 Added by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(5) (March 27, 2011)

2 Added by Environment Act 1995 c. 25 Sch.22 para.66(2) (April 1, 1996)

3 Amended by Pollution Prevention and Control (Scotland) Regulations 2000/323 (Scottish SI) Sch.10(1) para.3(4) (September 28, 2000)

4 Words inserted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(1) para.3(2) (June 30, 2014)

England and Wales

[…] [1]

Notes

1 Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 35(1)-(5): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 35(6): February 18, 1993 (SI 1993/274 art. 2(1))

Pt II s. 35(7): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 35(7A)-(7C): Date not available

Pt II s. 35(8)-(11): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 35(11A): Date not available

Pt II s. 35(12): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Extent

Pt II s. 35-(3)(b), (4)-(12): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 35(3)(c): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

[35A.— Compensation where rights granted pursuant to section 35(4) or 38(9A).

(1) This section applies in any case where—

(a) the holder of a licence is required—

(i) by the conditions of the licence; or

(ii) by a requirement imposed under section 38(9) below,

to carry out any works or do any other thing which he is not entitled to carry out or do;

(b) a person whose consent would be required has, pursuant to the requirements of section 35(4) above or 38(9A) below, granted, or joined in granting, to the holder of the licence any rights in relation to any land; and

(c) those rights, or those rights together with other rights, are such as will enable the holder of the licence to comply with any requirements imposed on him by the licence or, as the case may be, under section 38(9) below.

(2) In a case where this section applies, any person who has granted, or joined in granting, the rights in question shall be entitled to be paid compensation under this section by the holder of the licence.

(3) The Secretary of State shall by regulations provide for the descriptions of loss and damage for which compensation is payable under this section.

(4) The Secretary of State may by regulations—

(a) provide for the basis on which any amount to be paid by way of compensation under this section is to be assessed;

(b) without prejudice to the generality of subsection (3) and paragraph (a) above, provide for compensation under this section to be payable in respect of—

(i) any effect of any rights being granted, or

(ii) any consequence of the exercise of any rights which have been granted;

(c) provide for the times at which any entitlement to compensation under this section is to arise or at which any such compensation is to become payable;

(d) provide for the persons or bodies by whom, and the manner in which, any dispute—

(i) as to whether any, and (if so) how much and when, compensation under this section is payable; or

(ii) as to the person to or by whom it shall be paid,

is to be determined;

(e) provide for when or how applications may be made for compensation under this section;

(f) without prejudice to the generality of paragraph (d) above, provide for when or how applications may be made for the determination of any such disputes as are mentioned in that paragraph;

(g) without prejudice to the generality of paragraphs (e) and (f) above, prescribe the form in which any such applications as are mentioned in those paragraphs are to be made;

(h) make provision similar to any provision made by paragraph 8 of Schedule 19 to the Water Resources Act 1991;

(i) make different provision for different cases, including different provision in relation to different persons or circumstances;

(k) include such incidental, supplemental, consequential or transitional provision as the Secretary of State considers appropriate.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.67 (February 1, 1996 for the purpose of conferring power to make regulations or provisions in relation to the exercise of that power; April 1, 1998 for the purpose of imposing a duty or conferring power to make regulations; April 1, 1999 otherwise)

England and Wales

[…][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Extent

Pt II s. 35A(1)-(4)(k): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed With Amendments Pending

Scotland

36.— Grant of licences.

(1) An application for a licence shall be made—

(a) in the case of an application for a site licence, to the waste regulation authority in whose area the land is situated; and

(b) in the case of an application for a mobile plant licence, to the waste regulation authority in whose area the operator of the plant has his principal place of business;

[and shall be made on a form provided for the purpose by the waste regulation authority and accompanied by such information as that authority reasonably requires and the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995. **]** [1]

[(1A) Where an applicant for a licence fails to provide the waste regulation authority with any information required under subsection (1) above, the authority may refuse to proceed with the application, or refuse to proceed with it until the information is provided. **]** [1]

(2) A licence shall not be issued for a use of land for which planning permission is required in pursuance of the Town and Country Planning Act 1990 or the Town and Country Planning (Scotland) Act 1972 unless—

(a) such planning permission is in force in relation to that use of the land, or

(b) an established use certificate is in force under section 192 of the said Act of 1990 or section 90 of the said Act of 1972 in relation to that use of the land.

(3) Subject to subsection (2) above and subsection (4) below, a waste regulation authority to which an application for a licence has been duly made shall not reject the application if it is satisfied that the applicant is a fit and proper person unless it is satisfied that its rejection is necessary for the purpose of preventing—

(a) pollution of the environment;

(b) harm to human health; or

(c) serious detriment to the amenities of the locality;

but paragraph (c) above is inapplicable where planning permission is in force in relation to the use to which the land will be put under the licence.

(4) Where the waste regulation authority proposes to issue a licence, the authority must, before it does so,—

(a) refer the proposal to **[** the appropriate planning authority **]** [2] and the **[** safety regulator **]** [3] ; and

(b) consider any representations about the proposal which the **[** authority **]** [4] or the **[** safety regulator **]** [5] makes to it during the allowed period.

(5)-(6) **[…]**[6]

(7) Where any part of the land to be used is **[** within a site of special scientific interest or any area in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation (Scotland) Act 2004 (asp 6) has effect **]** [7] and the waste regulation authority proposes to issue a licence, the authority must, before it does so—

(a) refer the proposal to the appropriate nature conservation body; and

(b) consider any representations about the proposal which the body makes to it during the allowed period;

and in this section any reference to the appropriate nature conservation body is a reference to **[** Natural England **]** [8] , **[** Scottish Natural Heritage **]** [9] or the **[** Natural Resources Body for Wales **]** [10] , according as the land is situated in England, Scotland or Wales.

(8) **[…]**[11]

(9) If within the period of four months beginning with the date on which a waste regulation authority received an application for the grant of a licence, or within such longer period as the authority and the applicant may at any time agree in writing, the authority has neither granted the licence in consequence of the application nor given notice to the applicant that the authority has rejected the application, the authority shall be deemed to have rejected the application.

[(9A) Subsection (9) above—

(a) shall not have effect in any case where, by virtue of subsection (1A) above, the waste regulation authority refuses to proceed with the application in question, and

(b) shall have effect in any case where, by virtue of subsection (1A) above, the waste regulation authority refuses to proceed with it until the required information is provided, with the substitution for the period of four months there mentioned of the period of four months beginning with the date on which the authority received the information.

] [12]

[(10) The period allowed to the appropriate planning authority, the **[** safety regulator **]** [14] or the appropriate nature conservancy body for the making of representations under subsection (4) or (7) above about a proposal is the period of twenty-eight days beginning with the day on which the proposal is received by the waste regulation authority or such longer period as the waste regulation authority, the appropriate planning authority, the **[** safety regulator **]** [15] or the body, as the case may be, agree in writing.

(11) In this section—

"the appropriate planning authority" means —

(a) where the relevant land is situated in the area of a London borough council, that London borough council;

(b) where the relevant land is situated in the City of London, the Common Council of the City of London;

(c) where the relevant land is situated in a non-metropolitan county in England, the council of that county;

(d) where the relevant land is situated in a National Park or the Broads, the National Park authority for that National Park or, as the case may be, the Broads Authority;

(e) where the relevant land is situated elsewhere in England or Wales, the council of the district or, in Wales, the county or county borough, in which the land is situated;

(f) where the relevant land is situated in Scotland, the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 for the area in which the land is situated;

"the Broads" has the same meaning as in the Norfolk and Suffolk Broads Act 1988;

"National Park authority" , **[…]**[16] means a National Park authority established under section 63 of the Environment Act 1995 which has become the local planning authority for the National Park in question;

"the relevant land" means —

(a) in relation to a site licence, the land to which the licence relates; and

(b) in relation to a mobile plant licence, the principal place of business of the operator of the plant to which the licence relates **[;]** [17]

["the safety regulator" means—

(a) where the relevant land is, or is on, a nuclear site (within the meaning of Part 3 of the Energy Act 2013), the Office for Nuclear Regulation;

(b) otherwise, the Health and Safety Executive.

] [17]

(12) **[…]**[18]

(13) The Secretary of State may by regulations amend the definition of "appropriate planning authority" in subsection (11) above.

(14) This section shall have effect subject to section 36A below. **]** [13]

Notes

1 S.36(1A) and words substituted for words by Environment Act 1995 c. 25 Sch.22 para.68(2) (April 1, 1996 as specified in SI 1996/186 art.3 and 4; April 1, 1998 otherwise)

2 Words substituted by Environment Act 1995 c. 25 Sch.22 para.68(3)(a) (April 1, 1996 subject to a savings specified in SI 1996/186 art.4)

3 Words substituted by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.12(2)(a) (April 1, 2014)

4 Word substituted by Environment Act 1995 c. 25 Sch.22 para.68(3)(b) (April 1, 1996 subject to a savings specified in SI 1996/186 art.4)

5 Word substituted by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.12(2)(b) (April 1, 2014)

6 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

7 Words substituted by Nature Conservation (Scotland) Act 2004 asp 6 (Scottish Act) Sch.7 para.7 (November 29, 2004)

8 Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 Sch.11(1) para.116 (October 1, 2006)

9 Words substituted by Natural Heritage (Scotland) Act 1991 c. 28 Sch.2 para.10(2) (May 1, 1994: represents law in force as at date shown)

10 Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.214 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[11] Repealed by Environmental Protection Act 1990 c. 43 Sch.16(II) para.1 (April 1, 2015: as SSI 2015/72)

[12] Added by Environment Act 1995 c. 25 Sch.22 para.68(5) (April 1, 1998)

[13] Substituted by Environment Act 1995 c. 25 Sch.22 para.68(6) (April 1, 1996 subject to a savings specified in SI 1996/186 art.4)

[14] Words substituted by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.12(3)(a) (April 1, 2014)

[15] Word substituted by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.12(3)(b) (April 1, 2014)

[16] Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

[17] Definition inserted by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.12(4) (April 1, 2014)

[18] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

England and Wales

[...][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Amendments Pending

Pt II s. 36(6): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 14 para. (Not yet in force)

Pt II s. 36(6)(a)(iii): repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 14 para. (Not yet in force)

Pt II s. 36(6)(b): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(4)(c)(ii) (Not yet in force: repeal cannot take effect as 1994 c.39 Sch.13 para.167(4) never came into force)

Pt II s. 36(6)(b): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 14 para. (Not yet in force)

Pt II s. 36(8): repealed by Environmental Protection Act 1990 c. 43 Sch. 16(II) para. 1 (date to be appointed: commencement order SI)

Pt II s. 36(10): word added by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(4)(d)(i) (date to be appointed: insertion cannot take effect as 1994 c.39 Sch.13 para.167(4) never came into force)

Pt II s. 36(10): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(4)(d)(ii) (date to be appointed: repeal cannot take effect as 1994 c.39 Sch.13 para.167(4) never came into force)

Pt II s. 36(10): word added by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(4)(d)(iii) (date to be appointed: insertion cannot take effect as 1994 c.39 Sch.13 para.167(4) never came into force)

Pt II s. 36(10): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(4)(d)(iv) (Not yet in force: repeal cannot take effect as 1994 c.39 Sch.13 para.167(4) never came into force)

Pt II s. 36(10): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 14 para. (Not yet in force: commencement order)

Commencement

Pt II s. 36(1): February 18, 1993 (SI 1993/274 art. 2(1); SI 1994/1096 art. 2, art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 36(1A): Date not available

Pt II s. 36(2)-(9): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 36(9A): Date not available

Pt II s. 36(10): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 36(11)-(12): Date not available

Extent

Pt II s. 36-(11) definition of "the relevant land" (b), (13)-(14): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 36(11) definition of "the safety regulator"-(11) definition of "the safety regulator" (b): England, Wales, Scotland

---

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

[36A.— Consultation before the grant of certain licences.

(1) This section applies where an application for a licence has been duly made to a waste regulation authority, and the authority proposes to issue a licence subject (by virtue of section 35(4) above) to any condition which might require the holder of the licence to—

(a) carry out any works, or

(b) do any other thing,

which he might not be entitled to carry out or do.

(2) Before issuing the licence, the waste regulation authority shall serve on every person appearing to the authority to be a person falling within subsection (3) below a notice which complies with the requirements set out in subsection (4) below.

(3) A person falls within this subsection if—

(a) he is the owner, lessee or occupier of any land; and

(b) that land is land in relation to which it is likely that, as a consequence of the licence being issued subject to the condition in question, rights will have to be granted by virtue of section 35(4) above to the holder of the licence.

(4) A notice served under subsection (2) above shall—

(a) set out the condition in question;

(b) indicate the nature of the works or other things which that condition might require the holder of the licence to carry out or do; and

(c) specify the date by which, and the manner in which, any representations relating to the condition or its possible effects are to be made to the waste regulation authority by the person on whom the notice is served.

(5) The date which, pursuant to subsection (4)(c) above, is specified in a notice shall be a date not earlier than the date on which expires the period—

(a) beginning with the date on which the notice is served, and

(b) of such length as may be prescribed in regulations made by the Secretary of State.

(6) Before the waste regulation authority issues the licence it must, subject to subsection (7) below, consider any representations made in relation to the condition in question, or its possible effects, by any person on whom a notice has been served under subsection (2) above.

(7) Subsection (6) above does not require the waste regulation authority to consider any representations made by a person after the date specified in the notice served on him under subsection (2) above as the date by which his representations in relation to the condition or its possible effects are to be made.

(8) In subsection (3) above—

"owner", in relation to any land in England and Wales, means the person who—

(a) is for the time being receiving the rack-rent of the land, whether on his own account or as agent or trustee for another person; or

(b) would receive the rack-rent if the land were let at a rack-rent,

but does not include a mortgagee not in possession; and

"owner", in relation to any land in Scotland, means a person (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive or who would, if the land were let, be entitled to receive, the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.69 (April 1, 1998 so far as confers power to make regulations; April 1, 1999 otherwise)

England and Wales

[…][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Extent

Pt II s. 36A(1)-(8) definition of "owner Scotland": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

37.— Variation of licences.

(1) While a licence issued by a waste regulation authority is in force, the authority may, subject to regulations under section 35(6) above and to **[** subsections (2A) and (3) **]** [1] below,—

(a) on its own initiative, modify the conditions of the licence to any extent which, in the opinion of the authority, is desirable and is unlikely to require unreasonable expense on the part of the holder; and

(b) on the application of the licence holder accompanied by **[** the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995 **]** [2] , modify the conditions of his licence to the extent requested in the application.

(2) While a licence issued by a waste regulation authority is in force, the authority shall, except where it revokes the licence entirely under section 38 below, modify the conditions of the licence—

(a) to the extent which in the opinion of the authority is required for the purpose of ensuring that the activities authorised by the licence do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and

(b) to the extent required by any regulations in force under section 35(6) above.

[(2A) The conditions of a site licence may not be modified under subsection (1) so as to remove any of the specified land referred to in section 35(1) from the licence. **]** [1]

(3) The Secretary of State may, as respects any licence issued by a waste regulation authority, give to the authority directions as to the modifications which are to be made in the conditions of the licence under subsection (1)(a) or (2)(a) above; and it shall be the duty of the authority to give effect to the directions.

(4) Any modification of a licence under this section shall be effected by notice served on the holder of the licence and the notice shall state the time at which the modification is to take effect.

(5) **[** Section 36(4), (7) and (10) **]** [3] above shall with the necessary modifications apply to a proposal by a waste regulation authority to modify a licence under subsection (1) or (2)(a) above as they apply to a proposal to issue a licence, except that—

(a) the authority may postpone the reference so far as the authority considers that by reason of an emergency it is appropriate to do so; and

(b) the authority need not consider any representations as respects a modification which, in the opinion of the waste regulation authority, will not affect any authority mentioned in the subsections so applied.

(6) If within the period of two months beginning with the date on which a waste regulation authority received an application by the holder of a licence for a modification of it, or within such longer period as the authority and the applicant may at any time agree in writing, the authority has neither granted a modification of the licence in consequence of the application nor given notice to the applicant that the authority has rejected the application, the authority shall be deemed to have rejected the application.

[(7) This section shall have effect subject to section 37A below. **]** [4]

Notes

[1] Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(6) (March 27, 2011)

[2] Words substituted by Environment Act 1995 c. 25 Sch.22 para.70(1) (April 1, 1996)

[3] Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

[4] Added by Environment Act 1995 c. 25 Sch.22 para.70(3) (April 1, 1999)

England and Wales

[…][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 37(1)-(2): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 37(2A): Date not available

Pt II s. 37(3): February 18, 1993 insofar as it enables the Secretary of State to give directions; May 1, 1994 otherwise save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1993/274 art. 2(2); SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 37(4)-(6): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 37(7): Date not available

Extent

Pt II s. 37-(2)(b), (3)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 37(2A): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

[37A.— Consultation before certain variations.

(1) This section applies where—

(a) a waste regulation authority proposes to modify a licence under section 37(1) or (2)(a) above; and

(b) the licence, if modified as proposed, would be subject to a relevant new condition.

(2) For the purposes of this section, a "relevant new condition" is any condition by virtue of which the holder of the licence might be required to carry out any works or do any other thing—

(a) which he might not be entitled to carry out or do, and

(b) which he could not be required to carry out or do by virtue of the conditions to which, prior to the modification, the licence is subject.

(3) Before modifying the licence, the waste regulation authority shall serve on every person appearing to the authority to be a person falling within subsection (4) below a notice which complies with the requirements set out in subsection (5) below.

(4) A person falls within this subsection if—

(a) he is the owner, lessee or occupier of any land; and

(b) that land is land in relation to which it is likely that, as a consequence of the licence being modified so as to be subject to the relevant new condition in question, rights will have to be granted by virtue of section 35(4) above to the holder of the licence.

(5) A notice served under subsection (3) above shall—

(a) set out the relevant new condition in question;

(b) indicate the nature of the works or other things which that condition might require the holder of the licence to carry out or do but which he could not be required to carry out or do by virtue of the conditions (if any) to which, prior to the modification, the licence is subject; and

(c) specify the date by which, and the manner in which, any representations relating to the condition or its possible effects are to be made to the waste regulation authority by the person on whom the notice is served.

(6) The date which, pursuant to subsection (5)(c) above, is specified in a notice shall be a date not earlier than the date on which expires the period—

(a) beginning with the date on which the notice is served, and

(b) of such length as may be prescribed in regulations made by the Secretary of State.

(7) Before the waste regulation authority issues the licence it must, subject to subsection (8) below, consider any representations made in relation to the condition in question, or its possible effects, by any person on whom a notice has been served under subsection (3) above.

(8) Subsection (7) above does not require the waste regulation authority to consider any representations made by a person after the date specified in the notice served on him under subsection (3) above as the date by which his representations in relation to the condition or its possible effects are to be made.

(9) A waste regulation authority may postpone the service of any notice or the consideration of any representations required under the foregoing provisions of this section so far as the authority considers that by reason of an emergency it is appropriate to do so.

(10) In subsection (3) above, "owner" has the same meaning as it has in subsection (3) of section 36A above by virtue of subsection (8) of that section.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.71 (April 1, 1998 so far as confers power to make regulations; April 1, 1999 otherwise)

England and Wales

[…][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Extent

Pt II s. 37A(1)-(10): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

38.— Revocation and suspension of licences.

(1) Where a licence granted by a waste regulation authority is in force and it appears to the authority—

(a) that the holder of the licence has ceased to be a fit and proper person by reason of his having been convicted of a relevant offence; or

(b) that the continuation of the activities authorised by the licence would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and

(c) that the pollution, harm or detriment cannot be avoided by modifying the conditions of the licence;

the authority may exercise, as it thinks fit, either of the powers conferred by subsections (3) and (4) below.

(2) Where a licence granted by a waste regulation authority is in force and it appears to the authority that the holder of the licence has ceased to be a fit and proper person by reason of the management of the activities authorised by the licence having ceased to be in the hands of a technically competent person, the authority may exercise the power conferred by subsection (3) below.

(3) The authority may, under this subsection, revoke the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the authority specifies in revoking the licence.

[(3A) In the case of a site licence, a revocation under subsection (3) may extend to the whole of the land to which the licence extends or to any part of it. **]** [1]

(4) The authority may, under this subsection, revoke the licence entirely.

(5) **[** Subject to subsection (3A), a **]** [1] licence revoked under subsection (3) above shall cease to have effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the authority in revoking the licence but shall not affect the requirements imposed by the licence which the authority, in revoking the licence, specify as requirements which are to continue to bind the licence holder.

(6) Where a licence granted by a waste regulation authority is in force and it appears to the authority—

(a) that the holder of the licence has ceased to be a fit and proper person by reason of the management of the activities authorised by the licence having ceased to be in the hands of a technically competent person; or

(b) that serious pollution of the environment or serious harm to human health has resulted from, or is about to be caused by, the activities to which the licence relates or the happening or threatened happening of an event affecting those activities; and

(c) that the continuing to carry on those activities, or any of those activities, in the circumstances will continue or, as the case may be, cause serious pollution of the environment or serious harm to human health;

the authority may suspend the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the authority specifies in suspending the licence.

[(6A) In the case of a site licence, the suspension may extend to the whole of the land to which the licence extends or to any part of it. **]** [1]

(7) The Secretary of State may, if he thinks fit in relation to a licence granted by a waste regulation authority, give to the authority directions as to whether and in what manner the authority should exercise its powers under this section; and it shall be the duty of the authority to give effect to the directions.

(8) **[** Subject to subsection (6A), a **]**[1] licence suspended under subsection (6) above shall, while the suspension has effect, be of no effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the authority in suspending the licence.

(9) Where a licence is suspended under subsection (6) above, the authority, in suspending it or at any time while it is suspended, may require the holder of the licence to take such measures to deal with or avert the pollution or harm as the authority considers necessary.

[(9A) A requirement imposed under subsection (9) above may require the holder of a licence to carry out works or do other things notwithstanding that he is not entitled to carry out the works or do the thing and any person whose consent would be required shall grant, or join in granting, the holder of the licence such rights in relation to the land as will enable the holder of the licence to comply with any requirements imposed on him under that subsection.

(9B) Subsections (2) to (8) of section 36A above shall, with the necessary modifications, apply where the authority proposes to impose a requirement under subsection (9) above which may require the holder of a licence to carry out any such works or do any such thing as is mentioned in subsection (9A) above as they apply where the authority proposes to issue a licence subject to any such condition as is mentioned in subsection (1) of that section, but as if—

(a) the reference in subsection (3) of that section to section 35(4) above were a reference to subsection (9A) above; and

(b) any reference in those subsections—

(i) to the condition, or the condition in question, were a reference to the requirement; and

(ii) to issuing a licence were a reference to serving a notice, under subsection (12) below, effecting the requirement.

(9C) The authority may postpone the service of any notice or the consideration of any representations required under section 36A above, as applied by subsection (9B) above, so far as the authority considers that by reason of an emergency it is appropriate to do so. **]**[2]

(10) A person who, without reasonable excuse, fails to comply with any requirement imposed under subsection (9) above otherwise than in relation to special waste shall be liable—

(a) on summary conviction, to a fine of an amount not exceeding the statutory maximum; and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(11) A person who, without reasonable excuse, fails to comply with any requirement imposed under subsection (9) above in relation to special waste shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.

(12) Any revocation or suspension of a licence or requirement imposed during the suspension of a licence under this section shall be effected by notice served on the holder of the licence and the notice shall state the time at which the revocation or suspension or the requirement is to take effect and, in the case of suspension, the period at the end of which, or the event on the occurrence of which, the suspension is to cease.

[(12A) If, in the case of a partial revocation referred to in subsection (3A), the authority is of the opinion that it is necessary to modify the conditions of the licence to take account of the revocation, it shall specify the necessary modifications in the notice served under subsection (12) and the modifications specified in the notice shall take effect on the date specified in the notice. **]** [1]

[(13) If a waste regulation authority is of the opinion that proceedings for an offence under subsection (10) or (11) above would afford an ineffectual remedy against a person who has failed to comply with any requirement imposed under subsection (9) above, the authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction for the purpose of securing compliance with the requirement. **]** [3]

Notes

1 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(7) (March 27, 2011)

2 Added by Environment Act 1995 c. 25 Sch.22 para.72(1) (April 1, 1998 so far as confers power to make regulations; April 1, 1999 otherwise)

3 Added by Environment Act 1995 c. 25 Sch.22 para.72(2) (April 1, 1996)

England and Wales

[…][1]

Notes

1 Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 38(1)-(3): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 38(3A): Date not available

Pt II s. 38(4)-(6): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 38(6A): Date not available

Pt II s. 38(7): February 18, 1993 insofar as it enables the Secretary of State to give directions; May 1, 1994 otherwise save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1993/274 art. 2(2); SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 38(8)-(9): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 38(9A)-(9C): Date not available

Pt II s. 38(10)-(12): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 38(12A): Date not available

Pt II s. 38(13): Date not available

Extent

Pt II s. 38-(3), (4)-(6)(c), (7)-(12), (13): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 38(3A), (6A), (12A): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed With Amendments Pending

Scotland

39.— Surrender of licences.

(1) A licence may be surrendered by its holder to the authority which granted it but, in the case of a site licence, only if the authority accepts the surrender.

(2) The following provisions apply to the surrender and acceptance of the surrender of a site licence.

[(2A) A surrender of a site licence may extend to the whole of the land to which the licence extends or to any part of it. **]** [1]

(3) The holder of a site licence who desires to surrender it shall make an application for that purpose to the authority **[** on a form provided by the authority for the purpose, giving such information and accompanied by such evidence as the authority reasonably requires and accompanied by the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995. **]** [2]

(4) An authority which receives an application for the surrender of a site licence—

(a) shall inspect the land to which the **[** application **]** [1] relates, and

(b) may require the holder of the licence to furnish to it further information or further evidence.

(5) The authority shall determine whether it is likely or unlikely that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), will cause pollution of the environment or harm to human health.

(6) If the authority is satisfied that the condition of the land is unlikely to cause the pollution or harm mentioned in subsection (5) above, the authority shall, subject to subsection (7) below, accept the surrender of the licence; but otherwise the authority shall refuse to accept it.

(7) Where the authority proposes to accept the surrender of a site licence, the authority must, before it does so,—

(a) refer the proposal to **[** the appropriate planning authority **]** [3] ; and

(b) consider any representations about the proposal which **[** the appropriate planning authority **]** [3] makes to it during the allowed period;

[…][4]

(8) **[…]**[5]

(9) Where the surrender of a licence is accepted under this section the authority shall issue to the applicant, with the notice of its determination, a certificate (a "certificate of completion") stating that it is satisfied as mentioned in subsection (6) above and, on the issue of that certificate, the licence shall cease to have effect **[** or, in the case of a partial surrender referred to in subsection (2A), the licence shall cease to have effect in relation to the land to which the surrender extends **]** [1]
.

[(9A) If, in the case of a partial surrender referred to in subsection (2A), the authority is of the opinion that it is necessary to modify the conditions of the licence to take account of the surrender, it shall specify the necessary modifications in the notice of its determination issued under subsection (9) and the modifications specified in the notice shall take effect on the date specified in the notice. **]** [1]

(10) If within the period of three months beginning with the date on which an authority receives an application to surrender a licence, or within such longer period as the authority and the applicant may at any time agree in writing, the authority has neither issued a certificate of completion nor given notice to the applicant that the authority has rejected the application, the authority shall be deemed to have rejected the application.

(11) Section 36(10) above applies for the interpretation of the "allowed period" in **[** subsection (7) **]** [6] above.

[(12) In this section—

"the appropriate planning authority" means —

(a) where the relevant land is situated in the area of a London borough council, that London borough council;

(b) where the relevant land is situated in the City of London, the Common Council of the City of London;

(c) where the relevant land is situated in a non-metropolitan county in England, the council of that county;

(d) where the relevant land is situated in a National Park or the Broads, the National Park authority for that National Park or, as the case may be, the Broads Authority;

(e) where the relevant land is situated elsewhere in England or Wales, the council of the district or, in Wales, the county or county borough, in which the land is situated;

(f) where the relevant land is situated in Scotland, the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 for the area in which the land is situated;

"the Broads" has the same meaning as in the Norfolk and Suffolk Broads Act 1988;

"National Park authority" , **[…]**[8] means a National Park authority established under section 63 of the Environment Act 1995 which has become the local planning authority for the National Park in question;

"the relevant land", in the case of any site licence, means the land to which the licence relates.

(13) **[…]**[9]

(14) The Secretary of State may by regulations amend the definition of "appropriate planning authority" in subsection (12) above. **]** [7]

Notes

1 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(8) (March 27, 2011)

2 Words substituted by Environment Act 1995 c. 25 Sch.22 para.73(2) (April 1, 1996 as specified in SI 1996/186 art.3; April 1, 1998 otherwise)

3 Words substituted by Environment Act 1995 c. 25 Sch.22 para.73(3)(a) (April 1, 1996)

4 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

5 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

6 Words substituted by Environment Act 1995 c. 25 Sch.22 para.73(5) (April 1, 1996)

7 Added by Environment Act 1995 c. 25 Sch.22 para.73(6) (April 1, 1996)

8 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

9 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

England and Wales

[...][1]

Notes

1 Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Amendments Pending

Pt II s. 39(8): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(5)(a) (date to be appointed: repeal cannot take effect as 1994 c.39 Sch.13 para.167(5) never came into force)

Pt II s. 39(8)(a): substituted by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(5)(b) (date to be appointed: substitution cannot take effect as 1994 c.39 Sch.13 para.167(5) never came into force)

Pt II s. 39(8)(b): words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch. 13 para. 167(5)(c) (date to be appointed: repeal cannot take effect as 1994 c.39 Sch.13 para.167(5) never came into force)

Commencement

Pt II s. 39(1)-(2): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 39(2A): Date not available

Pt II s. 39(3): February 18, 1993 (SI 1993/274 art. 2(1))

Pt II s. 39(4)-(9): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 39(9A): Date not available

Pt II s. 39(10)-(11): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 39(12)-(13): Date not available

Extent

Pt II s. 39-(2), (3)-(9), (10)-(14): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 39(2A), (9A): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

40.— Transfer of licences.

(1) A licence may be transferred to another person in accordance with subsections (2) to (6) below and may be so transferred whether or not the licence is partly revoked or suspended under any provision of this Part.

[(1A) In the case of a site licence, a transfer under subsection (1) may extend to the whole of the land to which the licence extends or to any part of it, and in this Part "transfer" and cognate expressions used in relation to a site licence include such a partial transfer. **]** [1]

(2) Where the holder of a licence desires that the licence be transferred to another person ("the proposed transferee") the licence holder and the proposed transferee shall jointly make an application to the waste regulation authority which granted the licence for a transfer of it.

(3) An application under subsection (2) above for the transfer of a licence shall be made **[** on a form provided by the authority for the purpose, accompanied by such information as the authority may reasonably require, the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995 **]** [2] and the licence.

(4) If, on such an application, the authority is satisfied that the proposed transferee is a fit and proper person the authority shall effect a transfer of the licence to the proposed transferee.

(5) **[** Subject to subsections (5A) to (5C), the **]** [1] authority shall effect a transfer of a licence under the foregoing provisions of this section by causing the licence to be endorsed with the name and other particulars of the proposed transferee as the holder of the licence from such date specified in the endorsement as may be agreed with the applicants.

[(5A) The authority shall effect a partial transfer of a licence by—

(a) issuing a new licence to the transferee as respects the land to which the transfer relates; and

(b) returning the original licence to the holder endorsed to record that there has been a transfer, the particulars of the land transferred and the land to which the original licence now relates.

(5B) In the case of a partial transfer, the conditions included in the new licence and original licence after the transfer shall be the same as the conditions included in the original licence immediately before the transfer in so far as they are relevant to the sites covered by the new licence and the original licence respectively, but subject to such modifications as, in the opinion of the authority, are necessary to take account of the transfer.

(5C) A partial transfer shall take effect from such date as may be agreed with the applicants and specified in the endorsement and new licence. **]** [1]

(6) If within the period of two months beginning with the date on which the authority receives an application for the transfer of a licence, or within such longer period as the authority and the applicants may at any time agree in writing, the authority has neither effected a transfer of the licence nor given notice to the applicants that the authority has rejected the application, the authority shall be deemed to have rejected the application.

Notes

1 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(9) (March 27, 2011)

2 Words substituted by Environment Act 1995 c. 25 Sch.22 para.74 (April 1, 1996 as specified in SI 1996/186 art.3; April 1, 1998 otherwise)

England and Wales

[...][1]

Notes

1 Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 40(1): May 1, 1995 may 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 40(1A): Date not available

Pt II s. 40(2): May 1, 1995 may 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 40(3): February 18, 1993 (SI 1993/274 art. 2(1))

Pt II s. 40(4)-(5): May 1, 1995 may 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 40(5A)-(5C): Date not available

Pt II s. 40(6): May 1, 1995 may 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Extent

Pt II s. 40-(1), (2)-(5), (6)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 40(1A), (5A)-(5C): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

[NOTE: not yet in force otherwise.]

Scotland

[40A Consolidated Licences

(1) Subsection (2) applies where—

(a) a licence has been varied, or affected by a partial revocation, surrender or transfer;

(b) there is more than one site licence held by the same person and applying to the same site; or

(c) there is more than one mobile plant licence held by the same person.

(2) The authority may replace the licence or licences, as the case may be, with a consolidated licence.

(3) A consolidated licence must not contain any new conditions in respect of any land, mobile plant or activity.

] [1]

Notes

[1] Added by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(10) (March 27, 2011)

Extent

Pt II s. 40A(1)-(3): England, Wales, Scotland

Repealed

41.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

42.— Supervision of licensed activities.

(1) While a licence is in force it shall be the duty of the waste regulation authority which granted the licence to take the steps needed—

(a) for the purpose of ensuring that the activities authorised by the licence do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and

(b) for the purpose of ensuring that the conditions of the licence are complied with.

(2) **[…]**[1]

(3) For the purpose of performing the duty imposed on it by subsection (1) above, any officer of the authority authorised in writing for the purpose by the authority may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the land or in relation to plant or equipment on the land to which the licence relates or, as the case may be, in relation to the mobile plant to which the licence relates.

(4) Where a waste regulation authority incurs any expenditure by virtue of subsection (3) above, the authority may recover the amount of the expenditure from **[** the holder, or (as the case may be) the former holder, of the licence **]**[2] , except where the holder or former holder of the licence shows that there was no emergency requiring any work or except such of the expenditure as he shows was unnecessary.

(5) Where it appears to a waste regulation authority that a condition of a licence granted by it is not being complied with **[** or is likely not to be complied with **]**[3] , then, without prejudice to any proceedings under section 33(6) above, the authority may—

[(a) serve on the holder of the licence a notice—

(i) stating that the authority is of the opinion that a condition of the licence is not being complied with or, as the case may be, is likely not to be complied with;

(ii) specifying the matters which constitute the non-compliance or, as the case may be, which make the anticipated non-compliance likely;

(iii) specifying the steps which must be taken to remedy the non-compliance or, as the case may be, to prevent the anticipated non-compliance from occurring; and

(iv) specifying the period within which those steps must be taken; and

] [4]

(b) if in the opinion of the authority the licence holder **[** has not taken the steps specified in the notice within the period so specified, **]** [5] exercise any of the powers specified in subsection (6) below.

(6) The powers which become exercisable in the event mentioned in subsection (5)(b) above are the following—

(a) to revoke the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the authority specifies in revoking the licence;

(b) to revoke the licence entirely; and

(c) to suspend the licence so far as it authorises the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the authority in suspending the licence.

[(6ZA) In the case of a site licence, a revocation under subsection (6)(a) or a suspension under subsection (6)(c) may relate to the whole of the land to which the licence relates or to any part of it. **]** [6]

[(6A) If a waste regulation authority is of the opinion that revocation or suspension of the licence, whether entirely or to any extent, under subsection (6) above would afford an ineffectual remedy against a person who has failed to comply with any requirement imposed under subsection (5)(a) above, the authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction for the purpose of securing compliance with the requirement. **]** [7]

(7) Where a licence is revoked or suspended under subsection (6) above, **[[** subsections (3A), (5), (12) and (12A) **]** [6] or, as the case may be,subsections (8) to (12) of section 38 **]** [8] above shall apply with the necessary modifications as they respectively apply to revocations or suspensions of licences under that section; **[…]**[9] .

(8) The Secretary of State may, if he thinks fit in relation to a licence granted by a waste regulation authority, give to the authority directions as to whether and in what manner the authority should exercise its powers under this section; and it shall be the duty of the authority to give effect to the directions.

Notes

1 Repealed by Environment Act 1995 c. 25 Sch.22 para.76(2) (April 1, 1996)

2 Words substituted by Environment Act 1995 c. 25 Sch.22 para.76(3) (September 21, 1995)

3 Words added by Environment Act 1995 c. 25 Sch.22 para.76(4) (April 1, 1996)

4 Substituted by Environment Act 1995 c. 25 Sch.22 para.76(5) (April 1, 1996)

5 Words substituted by Environment Act 1995 c. 25 Sch.22 para.76(6) (April 1, 1996)

6 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(11) (March 27, 2011)

7 Added by Environment Act 1995 c. 25 Sch.22 para.76(7) (April 1, 1996)

8 Words substituted by Environment Act 1995 c. 25 Sch.22 para.76(8)(a) (July 19, 1995)

9 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

England and Wales

[…][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 42(1)-(6): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 42(6ZA): Date not available

Pt II s. 42(6A): Date not available

Pt II s. 42(7): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 42(8): February 18, 1993 insofar as it enables the Secretary of State to give directions; May 1, 1994 otherwise save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1993/274 art. 2(2); SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Extent

Pt II s. 42-(6)(c), (6A)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 42(6ZA): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

43.— Appeals to Secretary of State from decisions with respect to licences.

(1) Where, except in pursuance of a direction given by the Secretary of State,—

(a) an application for a licence or a modification of the conditions of a licence is rejected;
(b) a licence is granted subject to conditions;
(c) the conditions of a licence are modified;
(d) a licence is suspended;
(e) a licence is revoked under section 38 or 42 above;
(f) an application to surrender a licence is rejected; or
(g) an application for the transfer of a licence is rejected;

then, except in the case of an application for a transfer, the applicant for the licence or, as the case may be, the holder or former holder of it may appeal from the decision to the Secretary of State and, in the case of an application for a transfer, the proposed transferee may do so.

(2) Where an appeal is made to the Secretary of State—

(a)-(b) **[…]**[1]

(c) if a party to the appeal so requests, or the Secretary of State so decides, the appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held or held to any extent in private).

[(2A) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc). **]** [2]

(3) Where, on such an appeal, the Secretary of State or other person determining the appeal determines that the decision of the authority shall be altered it shall be the duty of the authority to give effect to the determination.

(4) While an appeal is pending in a case falling within subsection (1)(c) or (e) above, the decision in question shall, subject to subsection (6) below, be ineffective; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn.

(5) Where an appeal is made in a case falling within subsection (1)(d) above, the bringing of the appeal shall have no effect on the decision in question.

(6) Subsection (4) above shall not apply to a decision modifying the conditions of a licence under section 37 above or revoking a licence under section 38 or 42 above in the case of which the notice effecting the modification or revocation includes a statement that in the opinion of the authority it is necessary for the purpose of preventing or, where that is not practicable, minimising pollution of the environment or harm to human health that that subsection should not apply.

(7) Where the decision under appeal is one falling within subsection (6) above or is a decision to suspend a licence, if, on the application of the holder or former holder of the licence, the Secretary of State or other person determining the appeal determines that the authority acted unreasonably in excluding the application of subsection (4) above or, as the case may be, in suspending the licence, then—

(a) if the appeal is still pending at the end of the day on which the determination is made, subsection (4) above shall apply to the decision from the end of that day; and

(b) the holder or former holder of the licence shall be entitled to recover compensation from the authority in respect of any loss suffered by him in consequence of the exclusion of the application of that subsection or the suspension of the licence;

and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be determined by arbitration or in Scotland by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties.

(8) Provision may be made by the Secretary of State by regulations with respect to appeals under this section and in particular—

(a) as to the period within which and the manner in which appeals are to be brought; and

(b) as to the manner in which appeals are to be considered.

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

[2] Added by Environment Act 1995 c. 25 Sch.22 para.77 (April 1, 1996)

England and Wales

[...][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 43(1)-(2): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3, art. 2; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Pt II s. 43(2A): Date not available

Pt II s. 43(3)-(7): May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Pt II s. 43(8): February 18, 1993 (SI 1993/274 art. 2(1))

Extent

Pt II s. 43-(8)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force

Scotland

[44.— Offences of making false or misleading statements or false entries.

(1) A person who—

(a) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part, or

(b) for the purpose of obtaining for himself or another any grant of a licence, any modification of the conditions of a licence, any acceptance of the surrender of a licence or any transfer of licence,

makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, commits an offence.

(2) A person who intentionally makes a false entry in any record required to be kept by virtue of a licence commits an offence.

(3) A person who commits an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

] [1]

Notes

[1] Substituted by Environment Act 1995 c. 25 Sch.19 para.4(1) (April 1, 1996)

England and Wales

[44.— Offences of making false or misleading statements or false entries.

(1) A person who—

(a) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part,

(b) [...]

makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, commits an offence.

(2) [...]

(3) A person who commits an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

] [1]

Notes

[1] Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 44: May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Extent

Pt II s. 44-(3)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

[Integrated waste management plans: Scotland] [1]

Notes

[1] Added by Local Government in Scotland Act 2003 asp 1 (Scottish Act) Pt 6 s.34(1) (April 1, 2003)

Law In Force

[44ZA Duty to prepare integrated waste management plan

(1) It shall be the duty of a local authority to—

(a) prepare an integrated waste management plan; and

(b) submit it to the Scottish Ministers for approval.

(2) An integrated waste management plan is a plan which—

(a) sets out, by reference to policies contained in **[** national waste management plan **]** [2] , how the local authority intends to carry out its functions as waste disposal authority and waste collection authority (its "waste management functions"); and

(b) without prejudice to the generality of paragraph (a) above, contains statements on such matters relating to the carrying out of those functions as the Scottish Ministers may specify in directions.

(3) Directions under subsection (2)(b) above may, in particular, require integrated waste management plans to include statements setting out—

(a) levels of performance ("performance targets") which the local authority shall, in performing its waste management functions, endeavour to meet;

(b) steps which the local authority proposes to take in endeavouring to meet performance targets;

(c) arrangements which the local authority proposes to enter into with one or more other local authorities for the purpose of securing co-operation, in the carrying out of their respective waste management functions, between the local authorities.

(4) Integrated waste management plans shall—

(a) be prepared, and submitted, under subsection (1) above by such date; and

(b) relate to such period of time,

as the Scottish Ministers may direct.

(5) A local authority shall, in preparing its integrated waste management plan, have regard to such matters as the Scottish Ministers may direct.

(6) In this section, and in sections 44ZB to 44ZD below—

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39);

["national waste management plan" means the plan mentioned in regulation 3(1) of the National Waste Management Plan for Scotland Regulations 2007 (S.S.I. 2007/251), however constituted at the time and as modified from time to time. **]** [3]

"SEPA" means the Scottish Environment Protection Agency.

] [1]

Notes

1 Added by Local Government in Scotland Act 2003 asp 1 (Scottish Act) Pt 6 s.34(1) (April 1, 2003)

2 Words substituted by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(b)(i) (March 23, 2007)

3 Definition substituted by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(b)(ii) (March 23, 2007)

Extent

Pt II s. 44ZA(1)-(6) definition of "SEPA": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[44ZB Approval of integrated waste management plan

(1) The Scottish Ministers shall—

(a) approve an integrated waste management plan submitted to them under section 44ZA(1)(b) above without modification;

(b) approve the plan with such modifications as they consider appropriate; or

(c) refuse to approve the plan.

(2) If the Scottish Ministers refuse to approve a plan which has been so submitted they shall—

(a) notify the local authority in writing of that fact; and

(b) require the local authority to prepare and submit, by such date as the Scottish Ministers may specify, a further integrated waste management plan.

(3) The Scottish Ministers shall—

(a) approve an integrated waste management plan submitted to them under subsection (2)(b) above without modification; or

(b) approve the plan with such modifications as they consider appropriate.

(4) The Scottish Ministers shall—

(a) give written notice of their approval, under subsection (1) or (3) above, of an integrated waste management plan to the local authority; and

(b) if they have modified the plan, send a copy of the plan as modified to the local authority.

(5) The local authority shall, on receipt of notice given under subsection (4)(a) above—

(a) give public notice of the approved integrated waste management plan; and

(b) send a copy of it to SEPA.

(6) It shall be the duty of a local authority to make arrangements for allowing any person to—

(a) inspect its approved integrated waste management plan at its principal offices at any reasonable time;

(b) obtain a copy of it, or any part of it, on payment of such reasonable fee (if any) as the local authority may determine.

] [1]

Notes

[1] Added by Local Government in Scotland Act 2003 asp 1 (Scottish Act) Pt 6 s.34(1) (April 1, 2003)

Extent

Pt II s. 44ZB(1)-(6)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[44ZC Implementation of integrated waste management plan

(1) It shall be the duty of a local authority—

(a) to endeavour to carry out its waste management functions in accordance with its approved integrated waste management plan; and

(b) if requested by the Scottish Ministers, to provide the Scottish Ministers, by the date specified in their request, with a statement setting out whether the local authority is so carrying out its waste management functions.

(2) A statement provided under subsection (1)(b) above shall contain such information as the Scottish Ministers may direct.

(3) Directions under subsection (2) above may, in particular, require a local authority to—

(a) advise whether it has met, or is likely to meet, any performance targets set out in the plan; and

(b) if it has not done so, or is not likely to do so, explain why it considers the performance targets have not been, or are not likely to be, met.

] [1]

Notes

[1] Added by Local Government in Scotland Act 2003 asp 1 (Scottish Act) Pt 6 s.34(1) (April 1, 2003)

Extent

Pt II s. 44ZC(1)-(3)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[44ZD Modification of integrated waste management plan

(1) A local authority—

(a) may, from time to time; and

(b) shall, if requested by the Scottish Ministers,

modify its integrated waste management plan and submit it, as modified, to the Scottish Ministers for approval.

(2) Sections 44ZA to 44ZC apply in relation to a plan which is modified as they apply in relation to a plan prepared and submitted under section 44ZA(1) above.

] [1]

Notes

[1] Added by Local Government in Scotland Act 2003 asp 1 (Scottish Act) Pt 6 s.34(1) (April 1, 2003)

Extent

Pt II s. 44ZD(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Collection, disposal or treatment of controlled waste

Repealed

44A.— […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(5) (March 29, 2011)

Repealed

44B.— […][1]

Notes

[1] Repealed by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(a) (March 23, 2007)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

45.— Collection of controlled waste.

(1) It shall be the duty of each waste collection authority—

(a) to arrange for the collection of household waste in its area except waste—

(i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and

(ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste; and

(b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste.

(2) Each waste collection authority may, if requested by the occupier of premises in its area to collect any industrial waste from the premises, arrange for the collection of the waste; but a collection authority in England and Wales shall not exercise the power except with the consent of the waste disposal authority whose area includes the area of the waste collection authority.

(3) No charge shall be made for the collection of household waste except in cases prescribed in regulations made by the Secretary of State; and in any of those cases—

(a) the duty to arrange for the collection of the waste shall not arise until a person who controls the waste requests the authority to collect it; and

(b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request.

(4) A person at whose request waste other than household waste is collected under this section shall be liable to pay a reasonable charge for the collection and disposal of the waste to the authority which arranged for its collection; and it shall be the duty of that authority to recover the charge unless in the case of a charge in respect of commercial waste the authority considers it inappropriate to do so.

(5) It shall be the duty of each waste collection authority—

(a) to make such arrangements for the emptying, without charge, of privies serving one or more private dwellings in its area as the authority considers appropriate;

(b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment, if the authority so requires, of a reasonable charge.

(6) A waste collection authority may, if requested by the person who controls any other privy or cesspool in its area to empty the privy or cesspool, empty the privy or, as the case may be, remove from the cesspool such of its contents as the authority consider appropriate on payment, if the authority so requires, of a reasonable charge.

(7) A waste collection authority may—

(a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste;

(b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority under paragraph (a) above.

(8) A waste collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with commercial or industrial waste before it is collected under arrangements made by the authority under subsection (1)(b) or (2) above.

(9) Subject to section 48(1) below, anything collected under arrangements made by a waste collection authority under this section shall belong to the authority and may be dealt with accordingly.

(10) In relation to Scotland, sections 2, 3, 4 and 41 of the Sewerage (Scotland) Act 1968 (maintenance of public sewers etc.) shall apply in relation to pipes and associated works provided or to be provided under subsection (7)(a) above as those sections apply in relation to public sewers but as if—

[(a) the said section 2 conferred a power on a waste collection authority rather than a duty on [Scottish Water] [2] ;

(b) in the said section 3—

(i) references to [Scottish Water] [2] were references to a waste collection authority; and

(ii) in references to public sewers and public sewage works the word “public” were omitted;

(c) in the said section 4 , the reference to [Scottish Water] [2] were a reference to a waste collection authority and the words from “by virtue” to the end were omitted; and

(d) in the said section 41, the reference to **[** Scottish Water **]** [2] were a reference to a waste collection authority, **]** [1]

and the Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided under the said subsection (7)(a).

[(10A) Where a waste collection authority, in the exercise of its powers under subsection (7)(a) above, proposes to execute works outside its area, it shall, in addition to any notice served under section 3(2) of the Sewerage (Scotland) Act 1968 as applied by virtue of subsection (10) above, serve notice of its intention on the waste collection authority within whose area it is proposed to execute the works together with a description of the proposed works and if, within two months after the service of the notice, the waste collection authority on whom it was served objects to the proposed works, and that objection is not withdrawn, the first-mentioned authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Scottish Ministers who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as they think just, or who may withhold their consent, and their decision on the matter shall be final. **]** [3]

(11) In the application of this section to Scotland, subsection (5)(b) and the references to a cesspool occurring in subsection (6) shall be omitted.

(12) In this section "privy" means a latrine which has a moveable receptacle and "cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from buildings.

Notes

1 S.45(10)(a)-(d) substituted for s.45(10)(a) and (b) by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(6) (April 1, 1996)

2 Words substituted by Water Industry (Scotland) Act 2002 asp 3 (Scottish Act) Sch.7 para.20(2)(a) (April 1, 2002)

3 Added by Water Industry (Scotland) Act 2002 asp 3 (Scottish Act) Sch.7 para.20(2)(b) (April 1, 2002)

Scotland

[45.— Collection of controlled waste.

(1) It shall be the duty of each waste collection authority—

(a) to arrange for the collection of household waste in its area except waste—

(i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and

(ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste;

(b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste; and

(c) if requested by the occupier of premises in its area to collect from the premises dry recyclable waste or food waste presented for collection in accordance with section 34(2E) or (2F), to arrange for the collection of the waste.

(1A) In subsection (1)(c), the reference to "dry recyclable waste or food waste" does not include—

(a) household waste; and

(b) food waste from premises in a rural area.

(2) Each waste collection authority may, if requested by the occupier of premises in its area to collect any industrial waste from the premises, arrange for the collection of the waste; but a collection authority in England and Wales shall not exercise the power except with the consent of the waste disposal authority whose area includes the area of the waste collection authority.

(3) No charge shall be made for the collection of household waste except in cases prescribed in regulations made by the Secretary of State; and in any of those cases—

(a) the duty to arrange for the collection of the waste shall not arise until a person who controls the waste requests the authority to collect it; and

(b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request.

(4) A person at whose request waste other than household waste is collected under this section shall be liable to pay a reasonable charge for the collection and disposal of the waste to the authority which arranged for its collection; and it shall be the duty of that authority to recover the charge unless in the case of a charge in respect of commercial waste the authority considers it inappropriate to do so.

(5) It shall be the duty of each waste collection authority—

(a) to make such arrangements for the emptying, without charge, of privies serving one or more private dwellings in its area as the authority considers appropriate;

(b) if requested by the person who controls a cesspool serving only one or more private dwellings in its area to empty the cesspool, to remove such of the contents of the cesspool as the authority considers appropriate on payment, if the authority so requires, of a reasonable charge.

(6) A waste collection authority may, if requested by the person who controls any other privy or cesspool in its area to empty the privy or cesspool, empty the privy or, as the case may be, remove from the cesspool such of its contents as the authority consider appropriate on payment, if the authority so requires, of a reasonable charge.

(7) A waste collection authority may—

(a) construct, lay and maintain, within or outside its area, pipes and associated works for the purpose of collecting waste;

(b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works connecting with pipes provided by the authority under paragraph (a) above.

(8) A waste collection authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with commercial or industrial waste before it is collected under arrangements made by the authority under subsection (1)(b) or (2) above.

(9) Subject to section 48(1) below, anything collected under arrangements made by a waste collection authority under this section shall belong to the authority and may be dealt with accordingly.

(10) In relation to Scotland, sections 2, 3, 4 and 41 of the Sewerage (Scotland) Act 1968 (maintenance of public sewers etc.) shall apply in relation to pipes and associated works provided or to be provided under subsection (7)(a) above as those sections apply in relation to public sewers but as if—

(a) the said section 2 conferred a power on a waste collection authority rather than a duty on Scottish Water;

(b) in the said section 3—

(i) references to Scottish Water were references to a waste collection authority; and

(ii) in references to public sewers and public sewage works the word "public" were omitted;

(c) in the said section 4, the reference to Scottish Water were a reference to a waste collection authority and the words from "by virtue" to the end were omitted; and

(d) in the said section 41, the reference to Scottish Water were a reference to a waste collection authority,

and the Pipe-lines Act 1962 shall not apply to pipes and associated works provided or to be provided under the said subsection (7)(a).

(10A) Where a waste collection authority, in the exercise of its powers under subsection (7)(a) above, proposes to execute works outside its area, it shall, in addition to any notice served under section 3(2) of the Sewerage (Scotland) Act 1968 as applied by virtue of subsection (10) above, serve notice of its intention on the waste collection authority within whose area it is proposed to execute the works together with a description of the proposed works and if, within two months after the service of the notice, the waste collection authority on whom it was served objects to the proposed works, and that objection is not withdrawn, the first-mentioned authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Scottish Ministers who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as they think just, or who may withhold their consent, and their decision on the matter shall be final.

(11) In the application of this section to Scotland, subsection (5)(b) and the references to a cesspool occurring in subsection (6) shall be omitted.

(12) In this section—

"privy" means a latrine which has a moveable receptacle;

"cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from buildings; and

"rural area" has the same meaning as in section 34(4B).

] [1]

Notes

[1] Amended by Waste (Scotland) Regulations 2012/148 (Scottish SI) reg.2(4) (May 17, 2012)

Commencement

Pt II s. 45(1): February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 otherwise (SI 1992/266 art. 2, art. 3)

Pt II s. 45(1A): Date not available

Pt II s. 45(2): February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 in relation to Scotland; not yet in force otherwise (SI 1992/266 art. 2, art. 3)

Pt II s. 45(3)-(10): February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 otherwise (SI 1992/266 art. 2, art. 3)

Pt II s. 45(10A): Date not available

Pt II s. 45(11)-(12): February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 otherwise (SI 1992/266 art. 2, art. 3)

Extent

Pt II s. 45-(12): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force With Amendments Pending

[45A Arrangements for separate collection of recyclable waste

(1) This section applies to any waste collection authority whose area is in England (an "English waste collection authority").

(2) Where an English waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority shall ensure that the arrangements it makes in relation to those premises include the arrangements mentioned in subsection (3) below, unless it is satisfied that (in that case)–

(a) the cost of doing so would be unreasonably high; or

(b) comparable alternative arrangements are available.

(3) The arrangements are arrangements for the collection of at least two types of recyclable waste together or individually separated from the rest of the household waste.

(4) The requirement in subsection (2) above shall apply from 31st December 2010.

(5) The Secretary of State may, if requested to do so by an English waste collection authority, direct the authority that subsection (4) above shall have effect in relation to that authority as if the date mentioned there were such later date as may be specified in the direction (being a date no later than 31st December 2015).

(6) In this section, "recyclable waste" means household waste which is capable of being recycled or composted.

] [1]

Notes

[1] Added by Household Waste Recycling Act 2003 c. 29 s.1 (December 30, 2003)

Amendments Pending

Pt II s. 45A: word substituted by Environment (Wales) Act 2016 anaw. 3 Sch. 2(3) para. 14(2) (date to be appointed)

Pt II s. 45A: s.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30, Pt 3 s. 57(4) (date to be appointed)

Extent

Pt II s. 45A(10)-(6)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Not Yet In Force

[45AZA England: separate collection of household waste from relevant non-domestic premises

(1) This section applies in relation to arrangements for household waste to be collected from relevant non-domestic premises in England by a person who, in collecting the waste—

(a) is acting in the course of a business (whether or not for profit), or

(b) is exercising a public function (including a function under section 45(1)(a)).

(2) The arrangements must meet the conditions in subsections (3) to (7) (subject to any provision in regulations under section 45AZC).

(3) The first condition is that recyclable household waste must be collected separately from other household waste.

(4) The second condition is that recyclable household waste must be collected for recycling or composting.

(5) The third condition is that recyclable household waste in each recyclable waste stream must be collected separately, except so far as provided by subsection (6).

(6) Recyclable household waste in two or more recyclable waste streams may be collected together where—

(a) it is not technically or economically practicable to collect recyclable household waste in those recyclable waste streams separately, or

(b) collecting recyclable household waste in those recyclable waste streams separately has no significant environmental benefit (having regard to the overall environmental impact of collecting it separately and of collecting it together).

(7) But recyclable household waste within subsection (10)(a) to (d) may not be collected together with recyclable household waste within subsection (10)(e).

(8) The person who presents household waste from the premises for collection under the arrangements must present it separated in accordance with the arrangements.
This subsection does not apply so far as the person is subject to an equivalent duty by virtue of a notice under section 46.

(9) Household waste is "recyclable household waste" if—

(a) it is within any of the recyclable waste streams, and

(b) it is of a description specified in regulations made by the Secretary of State.

(10) For the purposes of this section the "recyclable waste streams" are—

(a) glass;

(b) metal;

(c) plastic;
(d) paper and card;
(e) food waste.

(11) For the purposes of this section "relevant non-domestic premises" means—
(a) a residential home;
(b) premises forming part of a university or school or other educational establishment;
(c) premises forming part of a hospital or nursing home;
(d) premises of a description specified in regulations made by the Secretary of State.

(12) Regulations under subsection (11)(d) may not specify domestic properties (within the meaning of section 75(5)(a)).
] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZA(11)-(8): England, Wales, Scotland

Not Yet In Force

[45AZB England: separate collection of industrial or commercial waste

(1) This section applies in relation to arrangements for industrial or commercial waste to be collected from premises in England by a person who, in collecting the waste—
(a) is acting in the course of a business (whether or not for profit), or
(b) is exercising a public function (including a function under section 45(1)(b) or (2)).

(2) So far as they relate to waste which is similar in nature and composition to household waste ("relevant waste") the arrangements must meet the conditions in subsections (3) to (7).
This is subject to any provision in regulations under section 45AZC.

(3) The first condition is that recyclable relevant waste must be collected separately from other relevant waste.

(4) The second condition is that recyclable relevant waste must be collected for recycling or composting.

(5) The third condition is that recyclable relevant waste in each recyclable waste stream must be collected separately, except so far as provided by subsection (6).

(6) Recyclable relevant waste in two or more recyclable waste streams may be collected together where—
(a) it is not technically or economically practicable to collect recyclable relevant waste in those recyclable waste streams separately, or
(b) collecting recyclable relevant waste in those recyclable waste streams separately has no significant environmental benefit (having regard to the overall environmental impact of collecting it separately and of collecting it together).

(7) But recyclable relevant waste within subsection (10)(a) to (d) may not be collected together with recyclable relevant waste within subsection (10)(e).

(8) The person who presents relevant waste from the premises for collection under the arrangements must present it separated in accordance with the arrangements.
This subsection does not apply so far as the person is subject to an equivalent duty by virtue of a notice under section 47.

(9) Relevant waste is "recyclable relevant waste" if—

(a) it is within any of the recyclable waste streams, and

(b) it is of a description specified in regulations made by the Secretary of State.

(10) For the purposes of this section the "recyclable waste streams" are—

(a) glass;

(b) metal;

(c) plastic;

(d) paper and card;

(e) food waste.

] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZB(5)-(8): England, Wales, Scotland

Not Yet In Force

[45AZC Sections 45A to 45AZB: powers to exempt and extend

(1) The Secretary of State may by regulations provide—

(a) for exemptions from the condition in section 45A(5), 45AZA(5) or 45AZB(5);

(b) for exemptions from the application of section 45AZA or 45AZB;

(c) for exemptions from the application of section 45AZA or 45AZB in relation to household waste or relevant waste in recyclable waste streams specified in the regulations.

(2) The Secretary of State may exercise the power in subsection (1)(a) in relation to two or more recyclable waste streams only if satisfied that doing so will not significantly reduce the potential for recyclable household waste or recyclable relevant waste in those waste streams to be recycled or composted.

(3) The Secretary of State may by regulations amend sections 45A to 45AZB so as to—

(a) add further recyclable waste streams, and

(b) make provision about the extent to which recyclable household waste or recyclable relevant waste in any of those waste streams may or may not be collected together with recyclable household waste or recyclable relevant waste in another recyclable waste stream.

(4) The Secretary of State may exercise the power in subsection (3)(a) in relation to a waste stream only if satisfied that—

(a) there is waste in that waste stream which is suitable for recycling or composting, and recycling or composting it will have an environmental benefit,
(b) all English waste collection authorities can make arrangements for collecting waste in that waste stream which comply with the conditions in section 45A, 45AZA or 45AZB (as appropriate), taking account of any amendments to be made under subsection (3)(b), and
(c) there is a market for it after its collection.

(5) Before making regulations under this section the Secretary of State must consult—
(a) the Environment Agency,
(b) English waste collection authorities,
(c) English waste disposal authorities, and
(d) anyone else the Secretary of State considers appropriate.

] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZC(4)-(1)(c): England, Wales, Scotland

Not Yet In Force

[45AZD Sections 45A to 45AZB: duties of waste collectors

(1) Subsection (2) applies where—
(a) a person collects or proposes to collect waste under arrangements to which section 45A, 45AZA or 45AZB applies, and
(b) the arrangements include arrangements to collect recyclable household waste or recyclable relevant waste in two or more recyclable waste streams together in reliance on section 45A(6), 45AZA(6) or 45AZB(6).

(2) The person must prepare a written assessment of why the person considers that the section relied on applies.

] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZD(1)-(1)(b): England, Wales, Scotland

Not Yet In Force

[45AZE Sections 45 to 45AZD: guidance

(1) The Secretary of State may issue guidance about the duties imposed by sections 45 to 45AZD.

(2) The guidance may in particular deal with—

(a) the circumstances in which it may not be technically or economically practicable to collect recyclable household waste or recyclable relevant waste in recyclable waste streams separately, or in which separate collection may not have significant environmental benefit;

(b) the frequency with which household waste other than recyclable household waste which is food waste should be collected;

(c) the kinds of waste which are relevant waste for the purposes of section 45AZB;

(d) assessments under section 45AZD.

(3) The guidance may make different provision in relation to section 45A, 45AZA and section 45AZB.

(4) Before issuing guidance under this section the Secretary of State must consult—

(a) the Environment Agency,

(b) English waste collection authorities,

(c) English waste disposal authorities, and

(d) anyone else the Secretary of State considers appropriate.

(5) A waste collection authority, and any party to arrangements to which section 45AZA or 45AZB applies, must have regard to the guidance.

] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZE(1)-(2)(d): England, Wales, Scotland

Not Yet In Force

[45AZF Sections 45AZA and 45AZB: compliance notices

(1) This section applies where the Environment Agency considers that a person other than an English waste collection authority—

(a) is a party to arrangements for the collection of household waste which fail to comply with section 45AZA,

(b) is a party to arrangements for the collection of relevant waste which fail to comply with section 45AZB, or

(c) is failing to comply with section 45AZA(8) or 45AZB(8).

(2) It may give that person a notice (a "compliance notice") requiring them to take specified steps within a specified period to secure that the failure does not continue or recur.

(3) A compliance notice must—

(a) specify the failures to comply with section 45AZA or 45AZB,

(b) specify the steps which must be taken for the purpose of preventing the failure continuing or recurring,

(c) specify the period within which those steps must be taken, and

(d) give information as to the rights of appeal (including the period within which an appeal must be brought).

(4) A person who fails to comply with a compliance notice commits an offence.

(5) A person who commits an offence under subsection (4) is liable on summary conviction or conviction on indictment to a fine.
] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZF(2)-(3)(b): England, Wales, Scotland

Not Yet In Force

[45AZG Sections 45AZA and 45AZB: appeals against compliance notices

(1) A person who is given a compliance notice may appeal to the First-tier Tribunal against—
(a) the notice, or
(b) any requirement in the notice.

(2) The notice or requirement has effect pending the determination of the appeal, unless the tribunal decides otherwise.

(3) The tribunal may—
(a) quash the notice or requirement,
(b) confirm the notice or requirement,
(c) vary the notice or requirement,
(d) take any steps the Environment Agency could take in relation to the failure giving rise to the notice or requirement, or
(e) remit any matter relating to the notice or requirement to the Environment Agency.
] [1]

Notes

[1] S.45A, 45AZA-45AZG substituted for s.45A by Environment Act 2021 c. 30 Pt 3 s.57(4) (date to be appointed)

Extent

Pt II s. 45AZG(3)-(3)(a): England, Wales, Scotland

Not Yet In Force

[45AA Wales: separate collection etc. of waste

(1) Where a waste collection authority in Wales arranges for the collection of controlled waste in its area under section 45, it must arrange for the waste to be collected in accordance with any applicable separation requirements.

(2) A person acting in the course of a business who—

(a) collects controlled waste from premises in Wales, or

(b) receives, keeps, treats or transports controlled waste in Wales,

must do so in accordance with any applicable separation requirements.

(3) For the purposes of subsection (2), a person is acting in the course of a business if the person is—

(a) carrying on any business or undertaking, whether for profit or not, or

(b) exercising any functions of a public nature.

(4) An occupier of premises in Wales who presents controlled waste for collection (whether by a waste collection authority or by any other person) must do so in accordance with any applicable separation requirements.

(5) Subsection (4) does not apply to an occupier of premises within paragraph (a) or (b) of section 75(5) (domestic property and caravans).

(6) A separation requirement is a requirement to take steps specified in regulations made by the Welsh Ministers for the purpose of ensuring or maintaining the separation of one or more types of waste from other types of waste or from other substances or articles.

(7) A separation requirement is applicable in the circumstances specified in relation to that requirement in regulations made by the Welsh Ministers.

(8) A person commits an offence if the person fails without reasonable excuse to comply with subsection (2) or (4).

(9) A person who commits an offence under subsection (8) is liable on summary conviction, or on conviction on indictment, to a fine.

(10) The Welsh Ministers may by regulations make provision (which may include provision amending this section)—

(a) for subsection (1) or (2) to apply subject to exceptions;

(b) for subsection (4) to apply subject to exceptions in addition to those in subsection (5).

(11) Regulations under this section may make different provision for different purposes, different cases (including different persons, premises or types of waste) and different areas.

] [1]

Notes

[1] Added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s.65 (date to be appointed)

Extent

Pt II s. 45AA(1)-(11): England, Wales, Scotland

Not Yet In Force

[45AB Code of practice

(1) The Welsh Ministers may issue one or more codes of practice for the purpose of giving practical guidance about how to comply with requirements imposed by or under section 45AA.

(2) The Welsh Ministers may revoke or revise a code of practice issued under this section.

(3) Before issuing a code of practice (or revised code), the Welsh Ministers must consult such persons as they think appropriate.

(4) Where the Welsh Ministers issue a code of practice (or revised code) they must—

(a) publish the code, and

(b) lay a copy before the National Assembly for Wales.

(5) A code of practice issued under this section is admissible in evidence in any proceedings and must be taken into account by a court in determining any question to which it appears to the court to be relevant.

] [1]

Notes

[1] Added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s.65 (date to be appointed)

Extent

Pt II s. 45AB(1)-(5): England, Wales, Scotland

Law In Force With Amendments Pending

[45B Power to apply section 45A to Welsh waste collection authorities

(1) The National Assembly for Wales may by order made by statutory instrument provide that section 45A above shall apply, subject to subsection (2) below, to all waste collection authorities whose areas are in Wales, as it applies to English waste collection authorities.

(2) Where the Assembly provides as mentioned in subsection (1) above, the reference to the Secretary of State in section 45A(5) above shall be read for these purposes as a reference to the National Assembly for Wales.

(3) Section 161(3) below (which relates to order-making powers) shall not apply to the making of an order under this section.

] [1]

Notes

[1] Added by Household Waste Recycling Act 2003 c. 29 s.2 (December 30, 2003)

Amendments Pending

Pt II s. 45B: repealed by Environment (Wales) Act 2016 anaw. 3 Sch. 2(3) para. 14(3) (date to be appointed)

Proposed Draft Amendments

Pt II s. 45B(3): repealed by Environment Bill 2021-22 (HL Bill 53) Pt 3 s. 64(3) (Royal Assent, November 9, 2021) (Not yet in force)

Extent

Pt II s. 45B(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[45C Separate collection of dry recyclable waste and food waste: Scotland

(1) This section applies to a waste collection authority whose area is in Scotland (an "authority") when the authority is making an arrangement in accordance with section 45(1)(a).

(2) An authority must, from 1st January 2014, arrange for there to be provided to the occupier of every domestic property in its area such receptacles as will enable the separate collection of dry recyclable waste from the property.

(3) An authority need not arrange for a receptacle to be provided under subsection (2) if—

(a) the property is in a rural area, and the authority considers that the separate collection of dry recyclable waste from the property would not be environmentally or economically practicable; or

(b) the authority considers that dry recyclable waste if not presented in a receptacle will be deposited at a bring site.

[(4) An authority need not comply with subsection (2) to the extent that—

(a) it considers that—

(i) such non-compliance will not affect the potential of the waste to undergo preparing for re-use, recycling or other recovery operations, and

(ii) the resulting output will be of comparable quantity and quality to that achieved if subsection (2) were complied with, and

(b) it is satisfied that dry recyclable waste will not be mixed with other waste that cannot be recycled.

] [2]

(5) An authority must, from 1st January 2016, arrange for there to be provided to the occupier of every domestic property in its area (apart from a property in a rural area)—

(a) a receptacle which enables the separate collection of food waste from the property; or

(b) where an authority is satisfied that the amount of food waste that will be collected is not significantly less than would be collected in a receptacle provided under paragraph (a), a receptacle which enables the occupier to present food waste and other biodegradable waste for collection.

(6) An authority must, from 1st January 2014, take such steps as the authority considers reasonable to—

(a) promote separate collection (including the making of arrangements for the provision of a food waste receptacle); and

(b) promote recycling in any other manner.

(7) In this section—

"bring site" means any site (supervised or otherwise) where—

(a) an occupier of domestic property can deposit dry recyclable waste produced on that property in receptacles for one or more dry waste streams; and

(b) waste so deposited is collected and transported separately by an authorised person (for which see section 34(3));

"receptacle" has the same meaning as in section 46(10); and

"rural area" has the same meaning as in section 34(4B).

] [1]

Notes

[1] Added by Waste (Scotland) Regulations 2012/148 (Scottish SI) reg.2(5) (May 17, 2012)

[2] Substituted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) Pt 2 reg.2(4) (December 4, 2020)

Extent

Pt II s. 45C(1)-(7) definition of "rural area": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force With Amendments Pending

Scotland

46.— Receptacles for household waste.

(1) Where a waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority may, by notice served on him, require the occupier to place the waste for collection in receptacles of a kind and number specified.

(2) The kind and number of the receptacles required under subsection (1) above to be used shall be such only as are reasonable but, subject to that, separate receptacles or compartments of receptacles may be required to be used for **[** dry recyclable waste, any dry waste stream, food waste, or any other waste which is to be recycled **]** [1] .

(3) In making requirements under subsection (1) above the authority may, as respects the provision of the receptacles—

(a) determine that they be provided by the authority free of charge;

(b) propose that they be provided, if the occupier agrees, by the authority on payment by him of such a single payment or such periodical payments as he agrees with the authority;

(c) require the occupier to provide them if he does not enter into an agreement under paragraph (b) above within a specified period; or

(d) require the occupier to provide them.

(4) In making requirements as respects receptacles under subsection (1) above, the authority may, by the notice under that subsection, make provision with respect to—

(a) the size, construction and maintenance of the receptacles;

(b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;

(c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;

(d) the substances or articles which may or may not be put into the receptacles or compartments of receptacles of any description and the precautions to be taken where particular substances or articles are put into them; **[…]**[2]

(e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles **[** ; **]** [3]

[(f) the removal of the receptacles placed for the purpose of facilitating the emptying of them; and

(g) the time when the receptacles must be placed for that purpose and removed. **]** [3]

(5) No requirement shall be made under subsection (1) above for receptacles to be placed on a highway or, as the case may be, road, unless—

(a) the relevant highway authority or roads authority have given their consent to their being so placed; and

(b) arrangements have been made as to the liability for any damage arising out of their being so placed.

(6) A person who fails, without reasonable excuse, to comply with any requirements imposed **[** by a waste collection authority in Scotland or Wales **]** [4] under subsection (1), (3)(c) or (d) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Where an occupier is required under subsection (1) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (1), subsection (3)(c) or (d) or (4) above on the ground that—

(a) the requirement is unreasonable; or

(b) the receptacles in which household waste is placed for collection from the premises are adequate.

(8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning—

(a) in a case where a period was specified under subsection (3)(c) above, with the end of that period; and

(b) where no period was specified, with the day on which the notice making the requirement was served on him.

(9) Where an appeal against a requirement is brought under subsection (7) above—

(a) the requirement shall be of no effect pending the determination of the appeal;

(b) the court shall either quash or modify the requirement or dismiss the appeal; and

(c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.

(10) In this section—

"receptacle" includes a holder for receptacles; and

"specified" means specified in a notice under subsection (1) above.

Notes

[1] Words substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) reg.2(6) (May 17, 2012)

[2] Word repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(1) para.3(3)(a) (June 30, 2014)

[3] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(1) para.3(3)(b) (June 30, 2014)

[4] Words inserted by Deregulation Act 2015 c. 20 s.58(2) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

England and Wales

[46.— Receptacles for household waste.

(1) Where a waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority may, by notice served on him, require the occupier to place the waste for collection in receptacles of a kind and number specified.

(2) The kind and number of the receptacles required under subsection (1) above to be used shall be such only as are reasonable but, subject to that, separate receptacles or compartments of receptacles may be required to be used for waste which is to be recycled and waste which is not.

(3) In making requirements under subsection (1) above the authority may, as respects the provision of the receptacles—

(a) determine that they be provided by the authority free of charge;

(b) propose that they be provided, if the occupier agrees, by the authority on payment by him of such a single payment or such periodical payments as he agrees with the authority;

(c) require the occupier to provide them if he does not enter into an agreement under paragraph (b) above within a specified period; or

(d) require the occupier to provide them.

(4) In making requirements as respects receptacles under subsection (1) above, the authority may, by the notice under that subsection, make provision with respect to—

(a) the size, construction and maintenance of the receptacles;

(b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;

(c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;

(d) the substances or articles which may or may not be put into the receptacles or compartments of receptacles of any description and the precautions to be taken where particular substances or articles are put into them; and

(e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.

(5) No requirement shall be made under subsection (1) above for receptacles to be placed on a highway or, as the case may be, road, unless—

(a) the relevant highway authority or roads authority have given their consent to their being so placed; and

(b) arrangements have been made as to the liability for any damage arising out of their being so placed.

(6) A person who fails, without reasonable excuse, to comply with any requirements imposed **[** by a waste collection authority in Scotland or Wales **]** [2] under subsection (1), (3)(c) or (d) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Where an occupier is required under subsection (1) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (1), subsection (3)(c) or (d) or (4) above on the ground that—

(a) the requirement is unreasonable; or

(b) the receptacles in which household waste is placed for collection from the premises are adequate.

(8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning—

(a) in a case where a period was specified under subsection (3)(c) above, with the end of that period; and

(b) where no period was specified, with the day on which the notice making the requirement was served on him.

(9) Where an appeal against a requirement is brought under subsection (7) above—

(a) the requirement shall be of no effect pending the determination of the appeal;

(b) the court shall either quash or modify the requirement or dismiss the appeal; and

(c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.

(10) In this section—

"receptacle" includes a holder for receptacles; and

"specified" means specified in a notice under subsection (1) above.

(11) A waste collection authority is not obliged to collect household waste that is placed for collection in contravention of a requirement under this section.

] [1]

Notes

[1] Added by Climate Change Act 2008 c. 27 Pt 5 s.76 (January 26, 2009)

[2] Words inserted by Deregulation Act 2015 c. 20 s.58(2) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Amendments Pending

Pt II s. 46(2): s.46(2)(a) and (b) substituted for words by Environment Act 2021 c. 30, Pt 3 s. 57(5) (date to be appointed)

Commencement

Pt II s. 46: April 1, 1992 (SI 1992/266 art. 3)

Extent

Pt II s. 46(1)-(4)(e), (5)-(10) definition of "specified": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 46(4)(f)-(4)(g): England, Wales, Scotland

Law In Force

[46A Written warnings and penalties for failure to comply with requirements relating to household waste receptacles: England

(1) This section applies where an authorised officer of a waste collection authority in England is satisfied that—

(a) a person has failed without reasonable excuse to comply with a requirement imposed by the authority under section 46(1), (3)(c) or (d) or (4) (a "section 46 requirement"), and

(b) the person's failure to comply—

(i) has caused, or is or was likely to cause, a nuisance, or

(ii) has been, or is or was likely to be, detrimental to any amenities of the locality.

(2) Where this section applies, the authorised officer may give a written warning to the person.

(3) A written warning must—

(a) identify the section 46 requirement with which the person has failed to comply,

(b) explain the nature of the failure to comply,

(c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),

(d) if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and

(e) whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement.

(4) Where a written warning has been given in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that the person has failed to comply with the section 46 requirement identified in the warning within the period specified by virtue of subsection (3)(d).

(5) Where a person has been required to pay a fixed penalty under subsection (4) and that requirement has not been withdrawn on appeal, an authorised officer of the authority may require the person to pay a further fixed penalty to the authority if satisfied that the failure to comply is still continuing at the end of a relevant period which falls within the period of one year beginning with the day the written warning was given.

(6) For the purposes of subsection (5)—

(a) a "relevant period" is a period beginning with the day a final notice is served on the person under section 46C(5) in respect of the failure to comply that is continuing and ending with—

(i) where the person appeals against the requirement to pay a fixed penalty imposed by the final notice, the day on which the appeal that is the final appeal made by the person against the requirement is dismissed or withdrawn;

(ii) where the person does not appeal, the day on which the period for appealing expires;

(b) there is no relevant period where the person appeals as mentioned in paragraph (a)(i) and the requirement to pay the fixed penalty is withdrawn on appeal.

(7) Where a written warning has been given, whether or not in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that, within the period of one year beginning with the day the written warning was given—

(a) the person has again failed without reasonable excuse to comply with the section 46 requirement identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b), or

(b) the person has failed without reasonable excuse to comply with a section 46 requirement that is similar to the one identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).

(8) An authorised officer may require a person to pay a fixed penalty under subsection (5) or (7) each time that the authorised officer is satisfied of the matters mentioned in the subsection.

(9) An authorised officer imposing a requirement to pay a fixed penalty under subsection (4), (5) or (7) must act in accordance with section 46C.

(10) A "fixed penalty" means a monetary penalty of an amount determined in accordance with section 46B.

(11) An "authorised officer", in relation to a waste collection authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving written warnings and requiring payment of fixed penalties under this section;

(b) any person who, under arrangements made with the authority, has the function of giving such warnings and requiring such payments and is authorised in writing by the authority to perform that function;

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such warnings and requiring such payments.

] [1]

Notes

[1] Added by Deregulation Act 2015 c. 20 s.58(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Extent

Pt II s. 46A(1)-(11)(c): England, Wales, Scotland

Law In Force

[46B Amount of penalty under section 46A and recovery of penalty

(1) The amount of the monetary penalty that a person may be required to pay to a waste collection authority under section 46A is—

(a) the amount specified by the waste collection authority in relation to the authority's area, or

(b) if no amount is so specified, £60.

(2) A waste collection authority may make provision for treating a fixed penalty under section 46A as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(3) The Secretary of State may by regulations make provision in connection with the powers conferred on waste collection authorities in England under subsections (1)(a) and (2).

(4) Regulations under subsection (3) may (in particular)—

(a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a waste collection authority may make provision under subsection (2).

(5) The Secretary of State may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

(6) A fixed penalty under section 46A—

(a) is recoverable summarily as a civil debt;

(b) is recoverable as if it were payable under an order of the High Court or the county court, if the court in question so orders.

] [1]

Notes

[1] Added by Deregulation Act 2015 c. 20 s.58(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Extent

Pt II s. 46B(1)-(6)(b): England, Wales, Scotland

Law In Force

[46C Penalties under section 46A: procedure regarding notices of intent and final notices

(1) Before requiring a person to pay a fixed penalty under section 46A, an authorised officer must serve on the person notice of intention to do so (a "notice of intent") in accordance with subsections (2) to (4).

(2) A notice of intent must contain information about—

(a) the grounds for proposing to require payment of a fixed penalty,

(b) the amount of the penalty that the person would be required to pay, and

(c) the right to make representations under subsection (3).

(3) A person on whom a notice of intent is served may make representations to the authorised officer as to why payment of a fixed penalty should not be required.

(4) Representations under subsection (3) must be made within the period of 28 days beginning with the day service of the notice of intent is effected.

(5) In order to require a person to pay a fixed penalty under section 46A, an authorised officer must serve on the person a further notice (the "final notice") in accordance with subsections (6) to (8).

(6) A final notice may not be served on a person by an authorised officer before the expiry of the period of 28 days beginning with the day service of the notice of intent on the person was effected.

(7) Before serving a final notice on a person, an authorised officer must consider any representations made by the person under subsection (3).

(8) The final notice must contain information about—

(a) the grounds for requiring payment of a fixed penalty,
(b) the amount of the penalty,
(c) how payment may be made,
(d) the period within which payment is required to be made (which must not be less than the period of 28 days beginning with the day service of the final notice is effected),
(e) any provision giving a discount for early payment made by virtue of section 46B(2),
(f) the right to appeal under section 46D, and
(g) the consequences of not paying the penalty.

] [1]

Notes

[1] Added by Deregulation Act 2015 c. 20 s.58(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Extent

Pt II s. 46C(1)-(8)(g): England, Wales, Scotland

Law In Force

[46D Appeals against penalties under section 46A

(1) A person on whom a final notice is served under section 46C may appeal to the First-tier Tribunal against the decision to require payment of a fixed penalty.

(2) On an appeal under this section the First-tier Tribunal may withdraw or confirm the requirement to pay the fixed penalty.

(3) The requirement to pay the fixed penalty is suspended pending the determination or withdrawal of the appeal that is the final appeal made by the person against the decision to require payment of the penalty. (This is subject to subsection (4).)

(4) Where the requirement to pay the fixed penalty is confirmed at any stage in the proceedings on appeal, payment must be made before the end of the period of 28 days beginning with the day on which the requirement is so confirmed unless the person makes a further appeal before the end of that period.

(5) The reference in subsection (4) to the requirement to pay the fixed penalty being confirmed on appeal includes a reference to an appeal decision confirming the requirement to pay the fixed penalty being upheld on a further appeal.

] [1]

Notes

[1] Added by Deregulation Act 2015 c. 20 s.58(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Extent

Pt II s. 46D(1)-(5): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force With Amendments Pending

England and Wales

47.— Receptacles for commercial or industrial waste.

(1) A waste collection authority may, at the request of any person, supply him with receptacles for commercial or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.

(2) If it appears to a waste collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may, by notice served on him, require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified.

(3) The kind and number of the receptacles required under subsection (2) above to be used shall be such only as are reasonable.

(4) In making requirements as respects receptacles under subsection (2) above, the authority may, by the notice under that subsection, make provision with respect to—

(a) the size, construction and maintenance of the receptacles;

(b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;

(c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;

(d) the substances or articles which may or may not be put into the receptacles and the precautions to be taken where particular substances or articles are put into them; and

(e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.

(5) No requirement shall be made under subsection (2) above for receptacles to be placed on a highway or, as the case may be, road unless—

(a) the relevant highway authority or roads authority have given their consent to their being so placed; and

(b) arrangements have been made as to the liability for any damage arising out of their being so placed.

(6) A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (2) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Where an occupier is required under subsection (2) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (2) or (4) above on the ground that—

(a) the requirement is unreasonable; or

(b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality.

(8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning with the day on which the notice making the requirement was served on him.

(9) Where an appeal against a requirement is brought under subsection (7) above—

(a) the requirement shall be of no effect pending the determination of the appeal;

(b) the court shall either quash or modify the requirement or dismiss the appeal; and

(c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.

(10) In this section—

"receptacle" includes a holder for receptacles; and

"specified" means specified in a notice under subsection (2) above.

Scotland

[47.— Receptacles for commercial or industrial waste.

(1) A waste collection authority may, at the request of any person, supply him with receptacles for commercial or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.

(2) If it appears to a waste collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may, by notice served on him, require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified.

(3) The kind and number of the receptacles required under subsection (2) above to be used shall be such only as are reasonable.

(4) In making requirements as respects receptacles under subsection (2) above, the authority may, by the notice under that subsection, make provision with respect to—

(a) the size, construction and maintenance of the receptacles;

(b) the placing of the receptacles for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;

(c) the placing of the receptacles for that purpose on highways or, in Scotland, roads;

(d) the substances or articles which may or may not be put into the receptacles and the precautions to be taken where particular substances or articles are put into them;

(e) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles **[** ; **]** [2]

[(f) the removal of the receptacles placed for the purpose of facilitating the emptying of them; and

(g) the time when the receptacles must be placed for that purpose and removed. **]** [2]

(5) No requirement shall be made under subsection (2) above for receptacles to be placed on a highway or, as the case may be, road unless—

(a) the relevant highway authority or roads authority have given their consent to their being so placed; and

(b) arrangements have been made as to the liability for any damage arising out of their being so placed.

(6) A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (2) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Where an occupier is required under subsection (2) above to provide any receptacles he may, within the period allowed by subsection (8) below, appeal to a magistrates' court or, in Scotland, to the sheriff by way of summary application against any requirement imposed under subsection (2) or (4) above on the ground that—

(a) the requirement is unreasonable; or

(b) the waste is not likely to cause a nuisance or be detrimental to the amenities of the locality.

(8) The period allowed to the occupier of premises for appealing against such a requirement is the period of twenty-one days beginning with the day on which the notice making the requirement was served on him.

(9) Where an appeal against a requirement is brought under subsection (7) above—

(a) the requirement shall be of no effect pending the determination of the appeal;

(b) the court shall either quash or modify the requirement or dismiss the appeal; and

(c) no question as to whether the requirement is, in any respect, unreasonable shall be entertained in any proceedings for an offence under subsection (6) above.

(10) In this section—

"receptacle" includes a holder for receptacles; and

"specified" means specified in a notice under subsection (2) above.

] [1]

Notes

[1] Word repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(1) para.3(4)(a) (June 30, 2014)

[2] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(1) para.3(4)(b) (June 30, 2014)

Amendments Pending

Pt II s. 47(3): words inserted by Environment Act 2021 c. 30, Pt 3 s. 57(6) (date to be appointed)

Commencement

Pt II s. 47: April 1, 1992 (SI 1992/266 art. 3)

Extent

Pt II s. 47(1)-(10) definition of "specified": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[47ZA Fixed penalty notices for offences under sections 46 and 47

(1) This section applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 or 47 above in the area of that authority.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the waste collection authority.

(3) Where a person is given a notice under this section in respect of an offence–

(a) no proceedings may be instituted for that offence before the expiration of the period of fourteen days following the date of the notice; and

(b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this section must also state–

(a) the period during which, by virtue of subsection (3) above, proceedings will not be taken for the offence;
(b) the amount of the fixed penalty; and
(c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) above at the address so mentioned.

(7) Where a letter is sent in accordance with subsection (6) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(9) In any proceedings a certificate which–
(a) purports to be signed on behalf of the chief finance officer of the waste collection authority, and
(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
is evidence of the facts stated.

(10) In this section–
"authorised officer", in relation to a waste collection authority, means–
(a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;
"chief finance officer", in relation to a waste collection authority, means the person having responsibility for the financial affairs of the authority.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.48 (April 6, 2006 as SI 2006/795)

Wales

[47ZA Fixed penalty notices for offences under sections 46 and 47

(1) This section applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 or 47 above in the area of that authority.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the waste collection authority.

(3) Where a person is given a notice under this section in respect of an offence–

(a) no proceedings may be instituted for that offence before the expiration of the period of fourteen days following the date of the notice; and

(b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this section must also state–

(a) the period during which, by virtue of subsection (3) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) above at the address so mentioned.

(7) Where a letter is sent in accordance with subsection (6) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(9) In any proceedings a certificate which–

(a) purports to be signed on behalf of the chief finance officer of the waste collection authority, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this section–

"authorised officer", in relation to a waste collection authority, means–

(a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

"chief finance officer", in relation to a waste collection authority, means the person having responsibility for the financial affairs of the authority.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.48 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

Extent

Pt II s. 47ZA(1)-(10) definition of "chief finance officer": England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[47ZB Amount of fixed penalty under section 47ZA

(1) This section applies in relation to a fixed penalty payable to a waste collection authority in pursuance of a notice under section 47ZA above.

(2) The amount of the fixed penalty–

(a) is the amount specified by the waste collection authority in relation to the authority's area, or

(b) if no amount is so specified **[—]** [2] **[**

(i) **[…]** [3]

(ii) is £100 **[…]** [4] . **]** [2]

(3) The waste collection authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(4) The appropriate person may by regulations make provision in connection with the powers conferred on waste collection authorities under subsections (2)(a) and (3) above.

(5) Regulations under subsection (4) may (in particular)–

(a) require an amount specified under subsection (2)(a) above to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (3) above.

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b) above.

] [1]

Notes

1 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.48 (April 6, 2006 as SI 2006/795)

2 Existing text renumbered as s.47ZB(2)(b)(ii), words inserted and s.47ZB(2)(i) added by Environmental Protection Act 1990 (Amendment of Fixed Penalty Amount) (England) Order 2012/1150 art.2 (May 30, 2012)

[3] Repealed by Deregulation Act 2015 c. 20 s.58(4)(a) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

[4] Words repealed by Deregulation Act 2015 c. 20 s.58(4)(b) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Wales

[47ZB Amount of fixed penalty under section 47ZA

(1) This section applies in relation to a fixed penalty payable to a waste collection authority in pursuance of a notice under section 47ZA above.

(2) The amount of the fixed penalty–

(a) is the amount specified by the waste collection authority in relation to the authority's area, or

(b) if no amount is so specified **[—]** [2] **[**

(i) **[…]**[3]

(ii) is £100 **[…]**[4] . **]** [2]

(3) The waste collection authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(4) The appropriate person may by regulations make provision in connection with the powers conferred on waste collection authorities under subsections (2)(a) and (3) above.

(5) Regulations under subsection (4) may (in particular)–

(a) require an amount specified under subsection (2)(a) above to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (3) above.

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b) above.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.48 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

[2] Existing text renumbered as s.47ZB(2)(b)(ii), words inserted and s.47ZB(2)(i) added by Environmental Protection Act 1990 (Amendment of Fixed Penalty Amount) (England) Order 2012/1150 art.2 (May 30, 2012)

[3] Repealed by Deregulation Act 2015 c. 20 s.58(4)(a) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

[4] Words repealed by Deregulation Act 2015 c. 20 s.58(4)(b) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 15, 2015 otherwise)

Extent

Pt II s. 47ZB(1)-(3), (5)-(6): England, Wales, Scotland

Pt II s. 47ZB(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[47A Recycling and composting: duty to report to Parliament

(1) Not later than 31st October 2004, the Secretary of State shall lay before each House of Parliament a report of the performance–

(a) of each English waste authority in meeting its recycling and composting standards (if any); and

(b) of each English waste collection authority towards meeting the requirement imposed by section 45A(2) above.

(2) In this section–

"English waste authority" means a waste collection authority or a waste disposal authority whose area is in England;

"English waste collection authority" means a waste collection authority whose area is in England; and

"recycling and composting standards" means, in relation to an English waste authority, such performance standards and performance indicators (if any) as may be specified for that authority in an order made under section 4 of the Local Government Act 1999 in connection with the recycling and composting of household waste.

] [1]

Notes

[1] Added by Household Waste Recycling Act 2003 c. 29 s.3 (December 30, 2003)

Extent

Pt II s. 47A(1)-(2) definition of "recycling and composting standards": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

48.— Duties of waste collection authorities as respects disposal of waste collected.

(1) Subject to subsections (2) and (6) below, it shall be the duty of each waste collection authority to deliver for disposal all waste which is collected by the authority under section 45 above to such places as the waste disposal authority for its area directs.

[(1A) A waste collection authority in England which is not also a waste disposal authority must discharge its duty under subsection (1) above in accordance with any directions about separation of waste given by the waste disposal authority for its area. **]** [1]

(2) The duty imposed on a waste collection authority by subsection (1) above does not, except in cases falling within subsection (4) below, apply as respects household waste or commercial waste for which the authority decides to make arrangements for recycling the waste; and the authority shall have regard, in deciding what recycling arrangements to make, to its waste recycling plan under section 49 below.

(3) A waste collection authority which decides to make arrangements under subsection (2) above for recycling waste collected by it shall, as soon as reasonably practicable, by notice in writing, inform the waste disposal authority for the area which includes its area of the arrangements which it proposes to make.

(4) Where a waste disposal authority has made **[…]**[2] arrangements, as respects household waste or commercial waste in its area or any part of its area, **[…]**[2] to recycle the waste, or any of it, the waste disposal authority may, by notice served on the waste collection authority, object to the waste collection authority having the waste recycled; and the objection may be made as respects all the waste, part only of the waste or specified descriptions of the waste.

(5) Where an objection is made under subsection (4) above, subsection (2) above shall not be available to the waste collection authority to the extent objected to.

(6) A waste collection authority may **[…]**[2] provide plant and equipment for the sorting and baling of waste retained by the authority under subsection (2) above.

(7) **[…]**[2]

(8) A waste collection authority may permit another person to use facilities provided by the authority under subsection (6) above and may provide for the use of another person any such facilities as the authority has power to provide under that subsection; and—

(a) subject to paragraph (b) below, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities, unless the authority considers it appropriate not to make a charge;

(b) no charge shall be made under this subsection in respect of household waste; and

(c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.

(9) This section shall not apply to Scotland.

Notes

1 Added by Waste and Emissions Trading Act 2003 c. 33 Pt 1 c.3 s.31(2) (January 1, 2005)

2 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (March 16, 2006 as SI 2006/768)

Commencement

Pt II s. 48(1): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 48(1A): Date not available

Pt II s. 48(2)-(6): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 48(7): Date to be appointed (repealed by 2005 c.16, s.107, Sch.5, never in force) (2005 c. 16 Pt 10 s. 107, Sch. 5(4) para. 1)

Pt II s. 48(8)-(9): April 1, 1992 (SI 1992/266 art. 3)

Extent

Pt II s. 48(1)-(9): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Repealed

England

49.— […][1]

Notes

[1] Repealed by Waste and Emissions Trading Act 2003 c. 33 Pt 1 c.4 s.35(a) (January 1, 2005 as SI 2004/3321)

Wales

[…][1]

Notes

[1] Repealed by Waste and Emissions Trading Act 2003 c. 33 Pt 1 c.4 s.35(a) (June 25, 2004 as SI 2004/1488)

Scotland

[…][1]

Notes

[1] Repealed by Local Government in Scotland Act 2003 asp 1 (Scottish Act) Pt 6 s.34(2) (April 1, 2003)

Repealed

50.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186 subject to savings specified in 1995 c.25 Sch.23 para.16)

Law In Force

51.— Functions of waste disposal authorities.

(1) It shall be the duty of each waste disposal authority to arrange—

(a) for the disposal of the controlled waste collected in its area by the waste collection authorities; and

(b) for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited;

[…][1]

(2) The arrangements made by a waste disposal authority under subsection (1)(b) above shall be such as to secure that—

(a) each place is situated either within the area of the authority or so as to be reasonably accessible to persons resident in its area;

(b) each place is available for the deposit of waste at all reasonable times (including at least one period on the Saturday or following day of each week except a week in which the Saturday is 25th December or 1st January);

(c) each place is available for the deposit of waste free of charge by persons resident in the area;

but the arrangements may restrict the availability of specified places to specified descriptions of waste.

(3) A waste disposal authority may include in arrangements made under subsection (1)(b) above arrangements for the places provided for its area for the deposit of household waste free of charge by residents in its area to be available for the deposit of household or other controlled waste by other persons on such terms as to payment (if any) as the authority determines.

(4) For the purpose of discharging its duty under subsection (1)(a) above as respects controlled waste collected as mentioned in that paragraph a waste disposal authority—

(a) shall give directions to the waste collection authorities within its area as to the persons to whom and places at which such waste is to be delivered;

(b)-(d) **[…][1]**

(e) may contribute towards the cost incurred by persons who produce commercial or industrial waste in providing and maintaining plant or equipment intended to deal with such waste before it is collected; and

(f) may contribute towards the cost incurred by persons who produce commercial or industrial waste in providing or maintaining pipes or associated works connecting with pipes provided by a waste collection authority within the area of the waste disposal authority.

[(4A) A waste disposal authority in England which is not also a waste collection authority may in directions under subsection (4)(a) above include requirements about separation that relate to waste as delivered, but may do so only if it considers it necessary for assisting it to comply with any obligation imposed on it by or under any enactment.

(4B) Before exercising its power to include requirements about separation in directions under subsection (4)(a) above, a waste disposal authority shall consult the waste collection authorities within its area.

(4C) In exercising its power to include requirements about separation in directions under subsection (4)(a) above, a waste disposal authority shall have regard to any guidance given by the Secretary of State as to the exercise of that power.

(4D) A waste disposal authority which includes requirements about separation in directions given under subsection (4)(a) above shall notify the waste collection authorities to which the directions are given of its reasons for including the requirements. **]** [2]

(5)-(6) **[…]**[1]

(7) Subsection (1) above is subject to section 77.

(8) This section shall not apply to Scotland.

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (March 16, 2006 as SI 2006/768)

[2] Added by Waste and Emissions Trading Act 2003 c. 33 Pt 1 c.3 s.31(3) (January 1, 2005)

Commencement

Pt II s. 51: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt II s. 51(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force With Amendments Pending

Scotland

52.— Payments for recycling and disposal etc. of waste.

(1) Where, under section 48(2) above, a waste collection authority retains for recycling waste collected by it under section 45 above, the waste disposal authority for the area which includes the area of the waste collection authority shall make to that authority payments, in respect of the waste so retained, of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.

(2) Where, by reason of the discharge by a waste disposal authority of its functions, waste arising in its area does not fall to be collected by a waste collection authority under section 45 above, the waste collection authority shall make to the waste disposal authority payments, in respect of the waste not falling to be so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.

(3) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste arising in the area of a waste disposal authority which would fall to be collected under section 45 above, the waste disposal authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.

(4) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste which would fall to be collected under section 45 above, the waste collection authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.

(5) The Secretary of State may, by regulations, impose on waste disposal authorities a duty to make payments corresponding to the payments which are authorised by subsection (3) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.

(6) For the purposes of subsections (1), (3) and (5) above the net saving of expenditure of a waste disposal authority on the disposal of any waste retained or collected for recycling is the amount of the expenditure which the authority would, but for the retention or collection, have incurred in having it disposed of less any amount payable by the authority to any person in consequence of the retention or collection for recycling (instead of the disposal) of the waste.

(7) For the purposes of subsections (2) and (4) above the net saving of expenditure of a waste collection authority on the collection of any waste not falling to be collected by it is the amount of the expenditure which the authority would, if it had had to collect the waste, have incurred in collecting it.

(8) The Secretary of State shall, by regulations, make provision for the determination of the net saving of expenditure for the purposes of subsections (1), (2), (3), (4) and (5) above.

(9) A waste disposal authority shall be entitled to receive from a waste collection authority such sums as are needed to reimburse the waste disposal authority the reasonable cost of making arrangements under section 51(1) above for the disposal of commercial and industrial waste collected in the area of the waste disposal authority.

(10) A waste disposal authority shall pay to a waste collection authority a reasonable contribution towards expenditure reasonably incurred by the waste collection authority in delivering waste, in pursuance of a direction under section 51(4)(a) above, to a place which is unreasonably far from the waste collection authority's area.

(11) Any question arising under subsection (9) or (10) above shall, in default of agreement between the two authorities in question, be determined by arbitration.

England and Wales

[52.— Payments for recycling and disposal etc. of waste.

(1) Where, under section 48(2) above, a waste collection authority retains for recycling waste collected by it under section 45 above, the waste disposal authority for the area which includes the

area of the waste collection authority shall make to that authority payments, in respect of the waste so retained

(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste disposal authority in Wales

of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.

[(1A) The Secretary of State may by order disapply subsection (1) above in relation to any waste disposal authority constituted under section 10 of the Local Government Act 1985 (joint arrangements for waste disposal in London and metropolitan counties) **[…]**[3] . **]**[2]

[(1B) A waste disposal authority is not required to make payments to a waste collection authority under subsection (1) above where, on the basis of arrangements involving the two authorities, the waste collection authority has agreed that such payments need not be made. **]**[4]

(2) Where, by reason of the discharge by a waste disposal authority of its functions, waste arising in its area does not fall to be collected by a waste collection authority under section 45 above, the waste collection authority shall make to the waste disposal authority payments, in respect of the waste not falling to be so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.

[(3) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste arising in the area of a waste disposal authority which would fall to be collected under section 45 above, the waste disposal authority may make to that person payments, in respect of the waste so collected

(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste disposal authority in Wales,

of such amounts representing its net saving of expenditure on the disposal of the waste as the authority determines.
][5]

(4) Where a person other than a waste collection authority, for the purpose of recycling it, collects waste which would fall to be collected under section 45 above, the waste collection authority may make to that person payments, in respect of the waste so collected, of such amounts representing its net saving of expenditure on the collection of the waste as the authority determines.

[(4A) The Secretary of State may by regulations impose on waste disposal authorities in England a duty to make payments corresponding to the payments which are authorised by subsection (3)(a) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations. **]**[6]

(5) The Secretary of State may, by regulations, impose on waste disposal authorities **[** in Wales **]**[6] a duty to make payments corresponding to the payments which are authorised by **[** subsection (3)(b) **]**[6] above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations.

(6) For the purposes of **[** subsections (1)(b), (3)(b) **]**[6] and (5) above the net saving of expenditure of a waste disposal authority on the disposal of any waste retained or collected for recycling is the amount of the expenditure which the authority would, but for the retention or collection, have

incurred in having it disposed of less any amount payable by the authority to any person in consequence of the retention or collection for recycling (instead of the disposal) of the waste.

(7) For the purposes of subsections (2) and (4) above the net saving of expenditure of a waste collection authority on the collection of any waste not falling to be collected by it is the amount of the expenditure which the authority would, if it had had to collect the waste, have incurred in collecting it.

(8) The Secretary of State shall, by regulations, make provision for the determination of the net saving of expenditure for the purposes of **[** subsections (1)(b), (2)(b), (3)(b), (4)(b) **]** [7] and (5) above.

[(8A) The Secretary of State may give guidance–

(a) to a waste disposal authority in England, for the purposes of determining whether to exercise the power in subsection (3) above;

(b) to a waste collection authority in England, for the purposes of determining whether to exercise the power in subsection (4) above.

] [8]

(9) A waste disposal authority shall be entitled to receive from a waste collection authority such sums as are needed to reimburse the waste disposal authority the reasonable cost of making arrangements under section 51(1) above for the disposal of commercial and industrial waste collected in the area of the waste disposal authority.

(10) A waste disposal authority shall pay to a waste collection authority a reasonable contribution towards expenditure reasonably incurred by the waste collection authority in delivering waste, in pursuance of a direction under section 51(4)(a) above, to a place which is unreasonably far from the waste collection authority's area.

(11) Any question arising under subsection (9) or (10) above shall, in default of agreement between the two authorities in question, be determined by arbitration.

[(12) In this section, references to recycling waste include re-using it (whether or not the waste is subjected to any process). **]** [9]

] [1]

Notes

1 Existing text amended and s.52(1)(a)-(b) inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.49(2) (March 7, 2006 as SI 2006/656)

2 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.49(3) (March 7, 2006 as SI 2006/656)

3 Words repealed by Deregulation Act 2015 c. 20 Sch.13(3) para.6(25) (May 26, 2015)

4 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.49(4) (April 6, 2006 as SI 2006/656)

5 Existing text amended and s.52(3)(a)-(b) inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.49(6) (March 7, 2006 as SI 2006/656)

6 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.3 (April 6, 2006 as SI 2006/656)

7 Words substituted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.3(6) (April 6, 2006: substitution has effect on April 6, 2006 for purposes specified in SI 2006/656 art.3(e)(ii); not yet in force otherwise)

8 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.49(8) (April 6, 2006 as SI 2006/656)

9 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.49(9) (April 6, 2006 as SI 2006/656)

Amendments Pending

Pt II s. 52: amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c. 2 s. 49 (date to be appointed)

Pt II s. 52(7): words substituted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch. 4 para. 3(5) (date to be appointed)

Commencement

Pt II s. 52(1): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 52(1A)-(1B): Date not available

Pt II s. 52(2): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt II s. 52(3)-(4): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 52(4A): Date not available

Pt II s. 52(5)-(7): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 52(8): December 13, 1991 in so far as it relates to 1990 c.43 s.52(1) and (3); not yet in force otherwise (SI 1991/2829 art. 2)

Pt II s. 52(8A): Date not available

Pt II s. 52(9)-(11): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 52(12): Date not available

Extent

Pt II s. 52(1)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[52A Payments for delivering waste pre-separated

(1) A waste disposal authority in England which is not also a waste collection authority shall pay to a waste collection authority within its area such amounts as are needed to ensure that the collection authority is not financially worse off as a result of having to comply with any separation requirements.

(2) A waste disposal authority in England which is not also a waste collection authority may pay to a waste collection authority within its area–

(a) which performs its duty under section 48(1) above by delivering waste in a state of separation, but

(b) which is not subject to any separation requirements as respects the delivery of that waste,

contributions of such amounts as the disposal authority may determine towards expenditure of the collection authority that is attributable to its delivering the waste in that state.

(3) The Secretary of State may by regulations make provision about how amounts to be paid under subsection (1) above are to be determined.

(4) Regulations under subsection (3) above may include provision for amounts to be less than they would otherwise be (or to be nil) if conditions specified in the regulations are not satisfied.

(5) Any question arising under subsection (1) above shall, in default of agreement between the paying and receiving authorities, be determined by arbitration.

(6) A waste collection authority in England which is not also a waste disposal authority shall supply the waste disposal authority for its area with such information as the disposal authority may reasonably require–

(a) for the purpose of determining amounts under this section, or

(b) for the purpose of estimating any amounts that would fall to be determined under this section were the collection authority to be subject to particular separation requirements.

(7) In this section "separation requirements", in relation to a waste collection authority, means requirements about separation included in directions given to it under section 51(4)(a) above.
] [1]

Notes

[1] Added by Waste and Emissions Trading Act 2003 c. 33 Pt 1 c.3 s.31(4) (January 1, 2005)

Extent

Pt II s. 52A(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

53.— Duties of authorities as respects disposal of waste collected: Scotland.

(1) It shall be the duty of each waste disposal authority to arrange for the disposal of any waste collected by it, in its capacity as a waste collection authority, under section 45 above; and without prejudice to the authority's powers apart from the following provisions of this subsection, the powers exercisable by the authority for the purpose of performing that duty shall include power—

(a) to provide, within or outside its area, places at which to deposit waste before the authority transfers it to a place or plant or equipment provided under the following paragraph; and

(b) to provide, within or outside its area, places at which to dispose of or recycle the waste and plant or equipment for processing, recycling or otherwise disposing of it.

(2) **[** Subsections (7), (10) and (10A) of section 45 **]** [1] above shall have effect in relation to a waste disposal authority as if the reference in paragraph (a) of the said subsection (7) to the collection of waste included the disposal of waste under this section and the disposal of anything produced from waste belonging to the authority.

(3) A waste disposal authority may permit another person to use facilities provided by the authority under the preceding provisions of this section and may provide for the use of another person any such facilities as the authority has power to provide under those provisions, and—

(a) subject to the following paragraph, it shall be the duty of the authority to make a reasonable charge in respect of the use by another person of the facilities unless the authority considers it appropriate not to make a charge;

(b) no charge shall be made under this section in respect of household waste; and

(c) anything delivered to the authority by another person in the course of using the facilities shall belong to the authority and may be dealt with accordingly.

(4) References to waste in subsection (1) above do not include matter removed from privies under section 45(5)(a) or (6) above, and it shall be the duty of a waste collection authority **[…]**[2] by which matter is so removed—

(a) to deliver the matter, in accordance with any directions of **[** Scottish Water **]** [3] , at a place specified in the directions (which must be in or within a reasonable distance from the waste collection authority's area), to **[** Scottish Water **]** [3] or another person so specified;
(b) to give to **[** Scottish Water **]** [3] from time to time a notice stating the quantity of the matter which the waste collection authority expects to deliver to or as directed by **[** Scottish Water **]** [3] under the preceding paragraph during a period specified in the notice.

(5) Any question arising under paragraph (a) of the preceding subsection as to whether a place is within a reasonable distance from a waste collection authority's area shall, in default of agreement between the waste collection authority and **[** Scottish Water **]** [3] in question, be determined by a single arbiter appointed, in default of agreement between the parties concerned, by the Secretary of State on the application of any of the parties; and anything delivered to **[** Scottish Water **]** [4] under that subsection shall belong to **[** Scottish Water **]** [3] and may be dealt with accordingly.

(5A) **[…]**[5]

(6) This section applies to Scotland only.

Notes

1 Words substituted by Water Industry (Scotland) Act 2002 asp 3 (Scottish Act) Sch.7 para.20(3)(a) (April 1, 2002)
2 Words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch.14 para. (April 1, 1996 as SI 1996/323)
3 Words substituted by Water Industry (Scotland) Act 2002 asp 3 (Scottish Act) Sch.7 para.20(3)(b) (April 1, 2002)
4 Words substituted by Water Industry (Scotland) Act 2002 asp 3 (Scottish Act) Sch.7 para.20(3)(c) (April 1, 2002)
5 Repealed by Water Industry (Scotland) Act 2002 asp 3 (Scottish Act) Sch.7 para.20(3)(d) (April 1, 2002)

Commencement

Pt II s. 53: April 1, 1992 (SI 1992/266 art. 3)

Extent

Pt II s. 53(1)-(6): Scotland

Repealed

54.— […][1]

Notes

1 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 2015: as SSI 2015/73)

Law In Force

55.— Powers for recycling waste.

(1) This section has effect for conferring on waste disposal authorities and waste collection authorities powers for the purposes of recycling waste.

(2) A waste disposal authority may—

(a) make arrangements **[…]**[1] to recycle waste as respects which the authority has duties under section 51(1) above or agrees with another person for its disposal or treatment;
(b) make arrangements **[…]**[1] to use waste for the purpose of producing from it heat or electricity or both;
(c) buy or otherwise acquire waste with a view to its being recycled;
(d) use, sell or otherwise dispose of waste as respects which the authority has duties under section 51(1) above or anything produced from such waste.

(3) A waste collection authority may—
(a) buy or otherwise acquire waste with a view to recycling it;
(b) use, or dispose of by way of sale or otherwise to another person, waste belonging to the authority or anything produced from such waste.

(4) This section shall not apply to Scotland.

Notes

[1] Words repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (March 16, 2006 as SI 2006/768)

Commencement

Pt II s. 55: April 1, 1992 (SI 1992/266 art. 3)

Extent

Pt II s. 55(1)-(4): England, Wales, Scotland

Law In Force

56.— Powers for recycling waste: Scotland.

(1) Without prejudice to the powers of waste disposal authorities apart from this section, a waste disposal authority may—
(a) do such things as the authority considers appropriate for the purpose of—
(i) enabling waste belonging to the authority, or belonging to another person who requests the authority to deal with it under this section, to be recycled; or
(ii) enabling waste to be used for the purpose of producing from it heat or electricity or both;
(b) buy or otherwise acquire waste with a view to its being recycled;
(c) use, sell or otherwise dispose of waste belonging to the authority or anything produced from such waste.

(2) This section applies to Scotland only.

Commencement

Pt II s. 56: April 1, 1992 (SI 1992/266 art. 3)

Extent

Pt II s. 56(1)-(2): Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force With Amendments Pending

Scotland

57.— Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered.

(1) The Secretary of State may, by notice in writing, direct **[** any waste management operator **]** [1] to accept and keep, or accept and treat or dispose of, controlled waste at specified places on specified terms.

(2) The Secretary of State may, by notice in writing, direct any person who is keeping controlled waste on any land to deliver the waste to a specified person on specified terms with a view to its being treated or disposed of by that other person.

(3) A direction under this section may impose a requirement as respects waste of any specified kind or as respects any specified consignment of waste.

[(3A) A direction under subsection (1) may only be given for the purpose of protecting the environment or human health. **]** [2]

(4) A direction under subsection (2) above may require the person who is directed to deliver the waste to pay to the specified person his reasonable costs of treating or disposing of the waste.

(5) A person who fails, without reasonable excuse, to comply with a direction under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A person shall not be guilty of an offence under any other enactment prescribed by the Secretary of State by regulations made for the purposes of this subsection by reason only of anything necessarily done or omitted in order to comply with a direction under this section.

(7) The Secretary of State may, where the costs of the treatment or disposal of waste are not paid or not fully paid in pursuance of subsection (4) above to the person treating or disposing of the waste, pay the costs or the unpaid costs, as the case may be, to that person.

[(7A) In subsection (6) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [3]

[(8) In this section—

(a) "authorisation" includes—

(i) any authorisation, permit, licence, registration or notification;

(ii) an exemption (whether or not subject to conditions or limitations) from a requirement to have or make an authorisation, permit, licence, registration or notification;

(iii) a requirement to comply with general binding rules, conditions or limitations;

(b) "specified" means specified in a direction under this section;

(c) "waste management operation" means the deposit, disposal, management, recovery or treatment of waste;

(d) "waste management operator" means a person—

(i) to whom an authorisation to carry on a waste management operation has been granted or transferred; or

(ii) carrying on a waste management operation in accordance with an authorisation.

] [4]

Notes

[1] Words substituted by Environmental Protection Act 1990 Amendment (Scotland) Regulations 2019/332 (Scottish SI) reg.2(a) (October 23, 2019)

[2] Added by Environmental Protection Act 1990 Amendment (Scotland) Regulations 2019/332 (Scottish SI) reg.2(b) (October 23, 2019)

[3] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(3) (June 30, 2014)

[4] Substituted by Environmental Protection Act 1990 Amendment (Scotland) Regulations 2019/332 (Scottish SI) reg.2(c) (October 23, 2019)

England and Wales

[57.— Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered.

(1) The Secretary of State may, by notice in writing, direct the holder of any **[** environmental permit authorising a waste operation **]** [2] to accept and keep, or accept and treat or dispose of, waste at specified places on specified terms.

(2) The Secretary of State may, by notice in writing, direct any person who is keeping waste on any land to deliver the waste to a specified person on specified terms with a view to its being treated or disposed of by that other person.

(3) A direction under this section may impose a requirement as respects waste of any specified kind or as respects any specified consignment of waste.

(4) A direction under subsection (2) above may require the person who is directed to deliver the waste to pay to the specified person his reasonable costs of treating or disposing of the waste.

(5) A person who fails, without reasonable excuse, to comply with a direction under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A person shall not be guilty of an offence under any other enactment prescribed by the Secretary of State by regulations made for the purposes of this subsection by reason only of anything necessarily done or omitted in order to comply with a direction under this section.

(7) The Secretary of State may, where the costs of the treatment or disposal of waste are not paid or not fully paid in pursuance of subsection (4) above to the person treating or disposing of the waste, pay the costs or the unpaid costs, as the case may be, to that person.

(7A) **[** [...] **]** [2]

(8) In this section—

"specified" means specified in a direction under this section; and

["waste" means anything that is waste within the meaning of **[** Article 3(1) of the Waste Framework Directive **]** [4] **[** , as read with Articles 5 and 6 of that Directive, **]** [5] of the European Parliament and of the Council on waste including anything excluded from the scope of that Directive by Article 2(1)(f) or 2(2)(b) or (c), but not including anything excluded by the remainder of that Article. **]** [3]

] [1]

Notes

1 Amended by Environmental Protection Act 1990 (Amendment of Section 57) (England and Wales) Regulations 2005/3026 reg.2 (November 22, 2005)

2 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.13 (April 6, 2008)

3 Definition substituted by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(6) (March 29, 2011)

4 Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(4) (March 20, 2019)

5 Words inserted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5(2) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)

Amendments Pending

Pt II s. 57(8) definition of "registered waste carrier": definition inserted by Environment Act 2021 c. 30, Sch. 10 para. 3(8) (January 9, 2022)

Pt II s. 57(8) definition of "appropriate Minister": definition inserted by Environment Act 2021 c. 30, Sch. 10 para. 3(8) (January 9, 2022)

Pt II s. 57(7A): added by Environment Act 2021 c. 30, Sch. 10 para. 3(7) (January 9, 2022)

Pt II s. 57(7): words substituted by Environment Act 2021 c. 30, Sch. 10 para. 3(6) (January 9, 2022)

Pt II s. 57(4A): added by Environment Act 2021 c. 30, Sch. 10 para. 3(5) (January 9, 2022)

Pt II s. 57(4): words substituted by Environment Act 2021 c. 30, Sch. 10 para. 3(4) (January 9, 2022)

Pt II s. 57(2A): added by Environment Act 2021 c. 30, Sch. 10 para. 3(3) (January 9, 2022)

Pt II s. 57(2): words repealed by Environment Act 2021 c. 30, Sch. 10 para. 3(2) (January 9, 2022)

Commencement

Pt II s. 57: May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2, art. 2(2), art. 2(3), art. 3; SI 1994/2487 art. 2; SI 1994/3234 art. 2)

Extent

Pt II s. 57-(8)(d)(ii): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

58. Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered: Scotland.

In relation to Scotland, the Secretary of State may give directions to a waste disposal authority to accept and keep, or accept and treat or dispose of, controlled waste at specified places on specified terms; and it shall be the duty of the authority to give effect to the directions.

Commencement

Pt II s. 58: May 1, 1994 (SI 1994/1096 art. 2(1))

Extent

Pt II s. 58: Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Law In Force

Scotland

59.— Powers to require removal of waste unlawfully deposited.

(1) If any controlled waste is deposited in or on any land in the area of a waste regulation authority or waste collection authority in contravention of section 33(1) above, the authority may, by notice served on him, require the occupier to do either or both of the following, that is—

(a) to remove the waste from the land within a specified period not less than a period of twenty-one days beginning with the service of the notice;

(b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.

(2) A person on whom any requirements are imposed under subsection (1) above may, within the period of twenty-one days mentioned in that subsection, appeal against the requirement to a magistrates' court or, in Scotland, to the sheriff by way of summary application.

(3) On any appeal under subsection (2) above the court shall quash the requirement if it is satisfied that—

(a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or

(b) there is a material defect in the notice;

and in any other case shall either modify the requirement or dismiss the appeal.

(4) Where a person appeals against any requirement imposed under subsection (1) above, the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

(5) If a person on whom a requirement imposed under subsection (1) above fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to one-tenth of level 5 on the standard scale for each day on which the failure continues after conviction of the offence and before the authority has begun to exercise its powers under subsection (6) below.

(6) Where a person on whom a requirement has been imposed under subsection (1) above by an authority fails to comply with the requirement the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.

(7) If it appears to a waste regulation authority or waste collection authority that waste has been deposited in or on any land in contravention of section 33(1) above and that—

(a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or

(b) there is no occupier of the land; or

(c) the occupier neither made nor knowingly permitted the deposit of the waste;

the authority may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.

(8) Where an authority exercises any of the powers conferred on it by subsection (7) above it shall be entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—

(a) in a case falling within subsection (7)(a) above, from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste;

(b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;

except such of the cost as the occupier or that person shows was incurred unnecessarily.

[(8C) An authority may not recover costs under subsection (8) above if a compensation order has been made under section 249 of the Criminal Procedure (Scotland) Act 1995 in favour of the authority in respect of any part of those costs.

(8D) Subsection (8C) does not apply if the compensation order is set aside on appeal. **]** [1]

(9) Any waste removed by an authority under subsection (7) above shall belong to that authority and may be dealt with accordingly.

Notes

[1] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(3) (June 30, 2014)

England

[59.— Powers to require removal of waste unlawfully deposited.

(1) If any controlled waste **[** or extractive waste **]** [2] is deposited in or on any land in the area of a waste regulation authority or waste collection authority in contravention of section 33(1) above **[**

or regulation 12 of [the Environmental Permitting Regulations] [4]] [3] , the authority may, by notice served on him, require the occupier to do either or both of the following, that is—

(a) to remove the waste from the land within a specified period not less than a period of twenty-one days beginning with the service of the notice;

(b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.

(2) A person on whom any requirements are imposed under subsection (1) above may, within the period of twenty-one days mentioned in that subsection, appeal against the requirement to a magistrates' court or, in Scotland, to the sheriff by way of summary application.

(3) On any appeal under subsection (2) above the court shall quash the requirement if it is satisfied that—

(a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or

(b) there is a material defect in the notice;

and in any other case shall either modify the requirement or dismiss the appeal.

(4) Where a person appeals against any requirement imposed under subsection (1) above, the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

(5) If a person on whom a requirement imposed under subsection (1) above fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to [one-tenth of the greater of £5,000 or level 4 on the standard scale] [5] for each day on which the failure continues after conviction of the offence and before the authority has begun to exercise its powers under subsection (6) below.

(6) Where a person on whom a requirement has been imposed under subsection (1) above by an authority fails to comply with the requirement the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.

(7) If it appears to a waste regulation authority or waste collection authority that waste has been deposited in or on any land in contravention of section 33(1) above [or regulation 12 of [the Environmental Permitting Regulations] [4] ,] [3] and that—

(a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or

(b) there is no occupier of the land or the occupier cannot be found without the authority incurring unreasonable expense; or

(c) the occupier neither made nor knowingly permitted the deposit of the waste;

the authority may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.

(8) Where an authority exercises any of the powers conferred on it by subsection (7) above it shall be entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—

(a) in a case falling within subsection (7)(a) above, from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste;

(b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;

except such of the cost as the occupier or that person shows was incurred unnecessarily.

(8A) An authority may not recover costs under subsection (8) above if **[** a compensation order (within the meaning given by section 133 of the Sentencing Code) has been made **]** [6] in favour of the authority in respect of any part of those costs.

(8B) Subsection (8A) does not apply if the order is set aside on appeal.

(9) Any waste removed by an authority under subsection (7) above shall belong to that authority and may be dealt with accordingly.

] [1]

Notes

1 Words inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.50(1) (April 6, 2006 as SI 2006/795)

2 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(7) (July 7, 2009)

3 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.14 (April 6, 2008)

4 Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(4)(c) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

5 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(2) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

6 Words substituted by Sentencing Act 2020 c. 17 Sch.24(1) para.118 (December 1, 2020: substitution has effect subject to savings and transitional provisions specified in 2020 c.17 s.412 and Sch.27 paras 3(1) and 5)

Wales

[59.— Powers to require removal of waste unlawfully deposited.

(1) If any controlled waste **[** or extractive waste **]** [2] is deposited in or on any land in the area of a waste regulation authority or waste collection authority in contravention of section 33(1) above **[** or regulation 12 of **[** the Environmental Permitting Regulations **]** [4] **]** [3] , the authority may, by notice served on him, require the occupier to do either or both of the following, that is—

(a) to remove the waste from the land within a specified period not less than a period of twenty-one days beginning with the service of the notice;

(b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.

(2) A person on whom any requirements are imposed under subsection (1) above may, within the period of twenty-one days mentioned in that subsection, appeal against the requirement to a magistrates' court or, in Scotland, to the sheriff by way of summary application.

(3) On any appeal under subsection (2) above the court shall quash the requirement if it is satisfied that—

(a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or

(b) there is a material defect in the notice;

and in any other case shall either modify the requirement or dismiss the appeal.

(4) Where a person appeals against any requirement imposed under subsection (1) above, the requirement shall be of no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

(5) If a person on whom a requirement imposed under subsection (1) above fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to **[** one-tenth of the greater of £5,000 or level 4 on the standard scale **]** [5] for each day on which the failure continues after conviction of the offence and before the authority has begun to exercise its powers under subsection (6) below.

(6) Where a person on whom a requirement has been imposed under subsection (1) above by an authority fails to comply with the requirement the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.

(7) If it appears to a waste regulation authority or waste collection authority that waste has been deposited in or on any land in contravention of section 33(1) above **[** or regulation 12 of **[** the Environmental Permitting Regulations **]** [4] , **]** [3] and that—

(a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or

(b) there is no occupier of the land **[** or the occupier cannot be found without the authority incurring unreasonable expense **]** [6] ; or

(c) the occupier neither made nor knowingly permitted the deposit of the waste;

the authority may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.

(8) Where an authority exercises any of the powers conferred on it by subsection (7) above it shall be entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—

(a) in a case falling within subsection (7)(a) above, from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste;

(b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;

except such of the cost as the occupier or that person shows was incurred unnecessarily.

(8A) An authority may not recover costs under subsection (8) above if **[** a compensation order (within the meaning given by section 133 of the Sentencing Code) has been made **]** [7] in favour of the authority in respect of any part of those costs.

(8B) Subsection (8A) does not apply if the order is set aside on appeal.

(9) Any waste removed by an authority under subsection (7) above shall belong to that authority and may be dealt with accordingly.

] [1]

Notes

1 Words inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.50(1) (April 6, 2006 as SI 2006/795)

2 Words inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 Sch.2 para.1(7) (July 7, 2009)

3 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.14 (April 6, 2008)

4 Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(4)(c) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

5 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(2) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

6 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.50(1) (October 27, 2006 as SI 2006/2797)

7 Words substituted by Sentencing Act 2020 c. 17 Sch.24(1) para.118 (December 1, 2020: substitution has effect subject to savings and transitional provisions specified in 2020 c.17 s.412 and Sch.27 paras 3(1) and 5)

Commencement

Pt II s. 59: May 1, 1994 (SI 1994/1096 art. 2(1))

Extent

Pt II s. 59(1)-(8)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 59(8C)-(8D): England, Wales, Scotland

Law In Force

[59ZA Section 59: supplementary power in relation to owner of land

(1) Where the grounds in subsection (2), (3) or (4) below are met, a waste regulation authority or waste collection authority may, by notice served on him, require the owner of any land in its area to comply with either or both of the requirements mentioned in subsection (1)(a) and (b) of section 59 above.

(2) The grounds in this subsection are that it appears to the authority that waste has been deposited in or on the land in contravention of section 33(1) above [or regulation 12 of the [the Environmental Permitting Regulations][3] ,][2] and–

(a) there is no occupier of the land, or

(b) the occupier cannot be found without the authority incurring unreasonable expense.

(3) The grounds in this subsection are that–

(a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,

(b) the occupier of the land is not the same person as the owner of the land, and

(c) the occupier has failed to comply with the requirement mentioned in paragraph (a) above within the period specified in the notice.

(4) The grounds in this subsection are that–

(a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,
(b) the occupier of the land is not the same person as the owner of the land, and
(c) the requirement mentioned in paragraph (a) above has been quashed on the ground specified in subsection (3)(a) of that section.

(5) Subsections (2) to (6) of section 59 above apply in relation to requirements imposed under this section on the owner of the land as they apply in relation to requirements imposed under that section on the occupier of the land but as if in subsection (3) there were inserted after paragraph (a)–

"(aa) in order to comply with the requirement the appellant would be required to enter the land unlawfully; or".

(6) In this section "owner" has the meaning given to it in section 78A(9) below.**[…]**[4]
] [1]

Notes

1 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.50(2) (April 6, 2006 as SI 2006/795)

2 Words added by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.15 (April 6, 2008)

3 Words substituted by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(4)(d) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

4 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.50(2) (October 27, 2006 as SI 2006/2797 art.2(j))

Extent

Pt II s. 59ZA(1)-(6): England, Wales

Law In Force

[59ZB.— Powers to require removal of waste unlawfully kept or disposed of: England and Wales

(1) Subsection (2) applies if any controlled waste or extractive waste is kept or disposed of in or on any land in the area of an authority in contravention of section 33(1) or regulation 12 of the Environmental Permitting Regulations.

(2) The authority may, by notice served on the occupier, require the occupier to do one or both of the following—
(a) remove the waste from the land within a specified period of not less than 21 days beginning with the service of the notice;
(b) take within such a period specified steps with a view to eliminating or reducing the consequences of the keeping or disposal of the waste.

(3) A person on whom a requirement is imposed under subsection (2) may, within 21 days beginning with the service of the notice, appeal against the requirement to a magistrates' court.

(4) On any appeal under subsection (3), the court must quash the requirement if it is satisfied that—
(a) the appellant did not keep or dispose of, or knowingly cause or knowingly permit the keeping or disposal of, the waste, or

(b) there is a material defect in the notice,

and in any other case may modify the requirement or dismiss the appeal.

(5) Where a person appeals against a requirement imposed under subsection (2), the requirement has no effect pending the determination of the appeal; and where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

(6) If a person on whom a requirement imposed under subsection (2) fails, without reasonable excuse, to comply with the requirement, that person is liable, on summary conviction, to a fine.

(7) Where a person on whom a requirement has been imposed under subsection (2) by an authority fails to comply with the requirement, the authority may do what that person was required to do and may recover from that person any expenses reasonably incurred by the authority in doing it.

(8) If it appears to an authority that controlled waste or extractive waste has been kept or disposed of in or on any land in the authority's area in contravention of section 33(1) or regulation 12 of the Environmental Permitting Regulations, and that—

(a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed, or that steps are taken to eliminate or reduce the consequences of the keeping or disposal, or both,

(b) there is no occupier of the land or the occupier cannot be found without the authority incurring unreasonable expense, or

(c) the occupier did not keep or dispose of, or knowingly cause or knowingly permit the keeping or disposal of, the waste,

the authority may remove the waste from the land, or take steps to eliminate or reduce the consequences of the keeping or disposal of the waste, or both.

(9) Where an authority exercises any of the powers conferred on it by subsection (8), it is entitled to recover the cost incurred by it in removing the waste or taking the steps or both, and in disposing of the waste—

(a) in a case falling within subsection (8)(a), from the occupier of the land, unless the occupier proves that the occupier did not keep or dispose of, or knowingly cause or knowingly permit the keeping or disposal of, the waste,

(b) in any case, from any person who kept or disposed of, or knowingly caused or knowingly permitted the keeping or disposal of, the waste,

except such of the cost as the occupier or that person shows was incurred unnecessarily.

(10) An authority may not recover costs under subsection (9) if **[** a compensation order (within the meaning given by section 133 of the Sentencing Code) has been made **]**[2] in favour of the authority in respect of any part of those costs.

(11) Subsection (10) does not apply if the compensation order is set aside on appeal.

(12) Any waste removed by an authority under subsection (8) belongs to that authority and may be dealt with accordingly.

(13) Subsections (2) and (8) do not apply in relation to household waste from a domestic property which is kept or disposed of within the curtilage of that property by a person other than an establishment or undertaking.

(14) In this section and section 59ZC, "authority" means—

(a) a waste regulation authority in England or Wales, or

(b) a waste collection authority in England or Wales.

] [1]

Notes

[1] Added by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.2 (May 8, 2018)

[2] Words substituted by Sentencing Act 2020 c. 17 Sch.24(1) para.119 (December 1, 2020: substitution has effect subject to savings and transitional provisions specified in 2020 c.17 s.412 and Sch.27 paras 3(1) and 5)

Extent

Pt II s. 59ZB(1)-(5), (8)-(8)(c), (9)(a)-(14)(b): England, Wales

Pt II s. 59ZB(6)-(7), (9): (extent not available)

Law In Force

[59ZC.— Section 59ZB: supplementary power in relation to owner of land

(1) Where the grounds in subsection (2) or (3) are met, an authority may, by notice served on the owner of any land in its area, require the owner to comply with one or both of the requirements mentioned in section 59ZB(2)(a) or (b).

(2) The grounds in this subsection are that it appears to the authority that controlled waste or extractive waste has been kept or disposed of in or on the land in contravention of section 33(1) or regulation 12 of the Environmental Permitting Regulations, and—

(a) there is no occupier of the land, or

(b) the occupier cannot be found without the authority incurring unreasonable expense.

(3) The grounds in this subsection are that—

(a) the authority has served a notice under section 59ZB(2) imposing a requirement on the occupier of the land,

(b) the occupier of the land is not the same person as the owner of the land, and

(c) either—

(i) the occupier has failed to comply with the requirement mentioned in paragraph (a) within the period specified in the notice, or

(ii) the requirement mentioned in paragraph (a) has been quashed on the ground specified in section 59ZB(4)(a).

(4) Section 59ZB(3) to (7) apply in relation to a requirement imposed under this section on the owner of the land as they apply in relation to a requirement imposed under that section on the occupier of land but as if in section 59ZB(4) there were inserted after paragraph (a)—

(aa) in order to comply with the requirement the appellant would be required to enter the land unlawfully, or".

(5) Subsection (1) does not apply in relation to household waste from a domestic property which is kept or disposed of within the curtilage of that property by a person other than an establishment or undertaking.

(6) In this section, "owner" has the meaning given by section 78A(9)[2] .

] [1]

Notes

[1] Added by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.2 (May 8, 2018)

[2] Section 78A was inserted by the Environment Act 1995, section 57.

Extent

Pt II s. 59ZC(1), (2)(a)-(3)(c)(ii), (6): England, Wales

Pt II s. 59ZC(2), (4)-(5): (extent not available)

Law In Force

[59A Directions in relation to exercise of powers under section 59 [, 59ZA, 59ZB or 59ZC] [2]

(1) The Secretary of State may issue directions setting out categories of waste to which a waste regulation authority or waste collection authority in England and Wales should give priority for the purposes of exercising its powers under **[** section 59, 59ZA, 59ZB or 59ZC **]** [3] above.

(2) Priorities set out in directions under subsection (1) above may be different for different authorities or areas.

(3) But nothing in this section or in any directions issued under it affects any power of an authority under **[** section 59, 59ZA, 59ZB or 59ZC **]** [3] above. **[…]**[4]

[(4) A waste regulation authority shall publicise any direction given to it under subsection (1) above in such manner as it considers appropriate. **]** [5]
] [1]

Notes

[1] Added by Anti-social Behaviour Act 2003 c. 38 Pt 6 s.55(4) (March 31, 2004 as SI 2004/690)

[2] Word inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.3(a) (May 8, 2018)

[3] Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.3(b) (May 8, 2018)

[4] Added by Anti-social Behaviour Act 2003 c. 38 Pt 6 s.55(4) (March 31, 2004 as SI 2004/999)

[5] Added by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.16 (April 6, 2008)

Extent

Pt II s. 59A(1)-(4): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force

Scotland

60.— Interference with waste sites and receptacles for waste.

(1) No person shall sort over or disturb—

(a) anything deposited at a place for the deposit of waste provided by a waste collection authority, by a waste disposal contractor under arrangements made with a waste disposal authority or by any other local authority or person or, in Scotland, by a waste disposal authority;

(b) anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by a waste disposal contractor under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence or, in Scotland, by a waste disposal authority or a roads authority; or

(c) the contents of any receptacle for waste which, in accordance with a requirement under section 46 or 47 above, is placed on any highway or, in Scotland, road or in any other place with a view to its being emptied;

unless he has the relevant consent or right to do so specified in subsection (2) below.

(2) The consent or right that is relevant for the purposes of subsection (1)(a), (b) or (c) above is—

(a) in the case of paragraph (a), the consent of the authority, contractor or other person who provides the place for the deposit of the waste;

(b) in the case of paragraph (b), the consent of the authority, contractor or other person who provides the receptacle for the deposit of the waste;

(c) in the case of paragraph (c), the right to the custody of the receptacle, the consent of the person having the right to the custody of the receptacle or the right conferred by the function by or under this Part of emptying such receptacles.

(3) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.

Wales

[60.— Interference with waste sites and receptacles for waste.

(1) No person shall sort over or disturb—

(a) anything deposited at a place for the deposit of waste provided by a waste collection authority, by or under arrangements made with a waste disposal authority or by any other local authority or person under arrangements made with a waste disposal authority or by any other local authority or person or, in Scotland, by a waste disposal authority;

(b) anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by or under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence; or

(c) the contents of any receptacle for waste which, in accordance with a requirement under section 46 or 47 above, is placed on any highway or, in Scotland, road or in any other place with a view to its being emptied;

unless he has the relevant consent or right to do so specified in subsection (2) below.

(2) The consent or right that is relevant for the purposes of subsection (1)(a), (b) or (c) above is—

(a) in the case of paragraph (a), the consent of the authority **[…]**[2] or other person who provides the place for the deposit of the waste;

(b) in the case of paragraph (b), the consent of the authority **[…]**[2] or other person who provides the receptacle for the deposit of the waste;

(c) in the case of paragraph (c), the right to the custody of the receptacle, the consent of the person having the right to the custody of the receptacle or the right conferred by the function by or under this Part of emptying such receptacles.

(3) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.
][1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.4 (March 16, 2006 as SI 2006/768)

[2] Word repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (March 16, 2006 as SI 2006/768)

England

[60.— Interference with waste sites and receptacles for waste.

(1) No person shall sort over or disturb—

(a) anything deposited at a place for the deposit of waste provided by a waste collection authority, by or under arrangements made with a waste disposal authority or by any other local authority or person;

(b) anything deposited in a receptacle for waste, whether for public or private use, provided by a waste collection authority, by or under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence; or

(c) the contents of any receptacle for waste which, in accordance with a requirement under section 46 or 47 above, is placed on any highway or, in Scotland, road or in any other place with a view to its being emptied;

unless he has the relevant consent or right to do so specified in subsection (2) below.

(2) The consent or right that is relevant for the purposes of subsection (1)(a), (b) or (c) above is—

(a) in the case of paragraph (a), the consent of the authority **[…]**[2] or other person who provides the place for the deposit of the waste;

(b) in the case of paragraph (b), the consent of the authority **[…]**[2] or other person who provides the receptacle for the deposit of the waste;

(c) in the case of paragraph (c), the right to the custody of the receptacle, the consent of the person having the right to the custody of the receptacle or the right conferred by the function by or under this Part of emptying such receptacles.

(3) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.

] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.4 (October 18, 2005 as SI 2005/2896)

[2] Word repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005 as SI 2005/2896)

Commencement

Pt II s. 60: May 31, 1991 for purposes specified in SI 1991/1319 art.2; May 1, 1994 otherwise (SI 1991/1319 art. 2; SI 1994/1096 art. 2(1))

Extent

Pt II s. 60-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | Scotland | England

Repealed

Wales

61.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (September 15, 2001 as SI 2001/3211)

Scotland

[…][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (July 14, 2000: as SSI 2000/180)

England

[…][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 2000 as SI 2000/340)

Special waste and non-controlled waste

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

62.— Special provision with respect to certain dangerous or intractable waste.

(1) If the Secretary of State considers that controlled waste of any kind is or may be so dangerous or difficult to treat, keep or dispose of that special provision is required for dealing with it he shall make provision by regulations for the treatment, keeping or disposal of waste of that kind ("special waste").

(2) Without prejudice to the generality of subsection (1) above, the regulations may include provision—

(a) for the giving of directions by waste regulation authorities with respect to matters connected with the treatment, keeping or disposal of special waste;

(b) for securing that special waste is not, while awaiting treatment or disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;

(c) in connection with requirements imposed on consignors or consignees of special waste, imposing, in the event of non-compliance, requirements on any person carrying the consignment to re-deliver it as directed;

(d) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to a prescribed authority;

(e) for the keeping of records by waste regulation authorities and by persons who import, export, produce, keep, treat or dispose of special waste or deliver it to another person for treatment or disposal, for the inspection of the records and for the furnishing by such persons to waste regulation authorities of copies of or information derived from the records;

(f) for the keeping in the register under section 64(1) below of copies of such of those records, or such information derived from those records, as may be prescribed;

(g) providing that a contravention of the regulations shall be an offence and prescribing the maximum penalty for the offence, which shall not exceed, on summary conviction, a fine at level 5 on the standard scale and, on conviction on indictment, imprisonment for a term of two years or a fine or both.

(3) Without prejudice to the generality of subsection (1) above, the regulations may include provision—

[(a) for the supervision by waste regulation authorities—

(i) of activities authorised by virtue of the regulations or of activities by virtue of carrying on which persons are subject to provisions of the regulations, or

(ii) of persons who carry on activities authorised by virtue of the regulations or who are subject to provisions of the regulations,

and for the recovery from persons falling within sub-paragraph (ii) above of the costs incurred by waste regulation authorities in performing functions conferred upon those authorities by the regulations;

] [1]

(b) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of special waste in pursuance of the regulations;

(c) as to appeals to the Secretary of State from decisions of waste regulation authorities under the regulations.

[(3A) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc). **]** [2]

(4) In the application of this section to Northern Ireland "waste regulation authority" means a district council established under the Local Government Act (Northern Ireland) 1972.

Notes

[1] Substituted by Environment Act 1995 c. 25 Sch.22 para.80(2) (September 21, 1995)

[2] Added by Environment Act 1995 c. 25 Sch.22 para.80(3) (April 1, 1996)

England and Wales

[...][1]

Notes

[1] Repealed subject to transitional provisions specified in SI 2005/894 Sch.12 by Hazardous Waste (England and Wales) Regulations 2005/894 Pt 11 reg.72(2) (July 16, 2005: repeal has effect subject to transitional provisions specified in SI 2005/894 Sch.12)

Commencement

Pt II s. 62: August 11, 1995 (SI 1995/2152 art. 2)

Extent

Pt II s. 62(1)-(2)(d), (2)(f)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 62(2)(e): United Kingdom (extends to Northern Ireland insofar as it relates to importation)

Not Yet In Force

[62ZA Special provision with respect to hazardous waste in England and Wales

(1) The relevant national authority may, by regulations, make provision for, about or connected with the regulation of hazardous waste in England and Wales.

(2) Provision that may be made in the regulations includes provision—

(a) prohibiting or restricting any activity in relation to hazardous waste;

(b) for the giving of directions by waste regulation authorities with respect to matters connected with any activity in relation to hazardous waste;

(c) imposing requirements about how hazardous waste may be kept (including requirements about the quantities of hazardous waste which may be kept at any place);

(d) about hazardous waste that originated outside England or Wales;

(e) about the registration of hazardous waste controllers or places where activities in relation to hazardous waste are carried out;

(f) for the keeping of records by hazardous waste controllers;

(g) for the inspection of those records by waste regulation authorities or specified persons;

(h) for the provision by hazardous waste controllers of copies of, or information derived from, those records to waste regulation authorities or specified persons;

(i) for hazardous waste controllers to inform waste regulation authorities, or specified persons, when carrying out activities in relation to hazardous waste;

(j) about the circumstances in which waste which is not hazardous waste, but which shares characteristics with hazardous waste, is to be treated as hazardous waste;

(k) for, about or connected with criminal offences;

(l) for, about or connected with the imposition of civil sanctions.

(3) The regulations may not provide for an offence to be punishable—

(a) on summary conviction, by imprisonment, or

(b) on conviction on indictment, by a term of imprisonment exceeding two years.

(4) For the purposes of this section "civil sanction" means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings).

(5) The regulations may make provision for, about or connected with the imposition of a sanction of that kind whether or not—

(a) the conduct in respect of which the sanction is imposed constitutes an offence, or

(b) the person imposing it is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008.

(6) The regulations may also include provision—

(a) for the supervision by waste regulation authorities—

(i) of activities in relation to hazardous waste, or

(ii) of hazardous waste controllers;

(b) about the keeping of records (which may include registers of hazardous waste controllers and places where hazardous waste may be kept or processed) by waste regulation authorities;

(c) as to the recovery of expenses or other charges for the treatment, keeping or disposal or the re-delivery of hazardous waste by waste regulation authorities or hazardous waste controllers;

(d) as to appeals to the relevant national authority from decisions of waste regulation authorities.

(7) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

(8) Regulations under this section may confer functions (including functions involving the exercise of a discretion) on the relevant national authority or a waste regulation authority.

(9) The regulations may—

(a) make different provision for different purposes;

(b) make incidental, supplementary, consequential, transitional or saving provision.

(10) For the purposes of this section "mixing" in relation to hazardous waste means—

(a) diluting it (with any substance);

(b) mixing it with other hazardous waste of a different type, or that has different characteristics;

(c) mixing it with any other substance or material (whether waste or not).

(11) In this section—

"activity", in relation to hazardous waste, includes—

(a) keeping, collecting, receiving, importing, exporting, transporting or producing hazardous waste;

(b) sorting, treating, recovering, mixing or otherwise processing hazardous waste;

(c) disposing of hazardous waste in any manner (including providing hazardous waste to another person for the purposes of that person carrying out an activity in relation to it);

(d) examining, testing or classifying hazardous waste (including doing any of those things to waste in connection with establishing whether it is hazardous);

(e) acting as a broker of, or dealer in, hazardous waste;

(f) directing or supervising another person in relation to an activity in relation to hazardous waste;

"hazardous waste controller" means a person who carries out any activity in relation to hazardous waste;

"relevant national authority" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

"specified" means specified in the regulations.

] [1]

Notes

[1] Added by Environment Act 2021 c. 30 Pt 3 s.60(2) (date to be appointed)

Extent

Pt II s. 62ZA(1)-(11) definition of "activity" (b): England, Wales, Scotland

Repealed

[…][1]

Notes

[1] Repealed by Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020/1540 Pt 3 reg.7 (December 31, 2020: shall come into force on IP completion day)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

63.— Waste other than controlled waste.

(1) The Secretary of State may, after consultation with such bodies as he considers appropriate, make regulations providing that prescribed provisions of this Part shall have effect in a prescribed area—

(a) as if references in those provisions to controlled waste or controlled waste of a kind specified in the regulations included references to such waste as is mentioned in section 75(7)(c) below which is of a kind so specified; and

(b) with such modifications as may be prescribed;

and the regulations may make such modifications of other enactments as the Secretary of State considers appropriate.

[(2) A person who deposits, or knowingly causes or knowingly permits the deposit of, any waste—

(a) which is not controlled waste, but

(b) which, if it were controlled waste, would be special waste,

in a case where he would be guilty of an offence under section 33 above if the waste were special waste and any waste management licence were not in force, shall, subject to subsection (3) below, be guilty of that offence and punishable as if the waste were special waste.
] [1]

(3) No offence is committed by virtue of subsection (2) above if the act charged was done under and in accordance with any consent, licence, approval or authority granted under any enactment (excluding any planning permission under the enactments relating to town and country planning).

(4) Section 45(2) and section 47(1) above shall apply to waste other than controlled waste as they apply to controlled waste.

[(5) In this section, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [2]

Notes

[1] Substituted by Environment Act 1995 c. 25 Sch.22 para.81 (April 1, 2015)

[2] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(4) (June 30, 2014)

England and Wales

[...][1]

Notes

[1] Amended by Waste Management (England and Wales) Regulations 2006/937 reg.2(5) (May 15, 2006)

Commencement

Pt II s. 63(1): February 18, 1993 (SI 1993/274 art. 2(1))

Pt II s. 63(2): Date to be appointed (repealed by SI 2005/894 pt 11 reg.73; never in force) (1990 c. 43 Pt IX s. 164(3); SI 2005/894 Pt 11 reg. 73)

Pt II s. 63(3): Date to be appointed (repealed by 2005/894 part11 reg.73; never in force) (1990 c. 43 Pt IX s. 164(3); SI 2005/894 Pt 11 reg. 73)

Pt II s. 63(4): Date to be appointed (repealed by SI 2006/937 reg.2(5); never in force) (1990 c. 43 Pt IX s. 164(3); SI 2006/937 reg. 2(5))

Pt II s. 63(5): Date not available

Extent

Pt II s. 63(1)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 63(5): England, Wales, Scotland

[Powers of waste collection authority or waste disposal authority in relation to generation of controlled waste][1]

Notes

[1] Added by Waste Minimisation Act 1998 c. 44 s.1 (November 19, 1998)

Law In Force

[63A.— Power to take steps to minimise generation of controlled waste.

(1) A relevant authority may do, or arrange for the doing of, or contribute towards the expenses of the doing of, anything which in its opinion is necessary or expedient for the purpose of minimising the quantities of controlled waste, or controlled waste of any description, generated in its area.

(2) Where a relevant authority in England ("the first authority") proposes to exercise any of its powers under subsection (1), it shall before doing so consult about the proposal every other relevant authority whose area includes all or part of the area of the first authority.

(3) In this section "relevant authority" means a waste collection authority or a waste disposal authority
] [1]

Notes

[1] Added by Waste Minimisation Act 1998 c. 44 s.1 (November 19, 1998)

Extent

Pt II s. 63A(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Publicity

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

64.— Public registers.

(1) Subject to sections 65 and 66 below, it shall be the duty of each waste regulation authority to maintain a register containing prescribed particulars of or relating to—

(a) current or recently current licences ("licences") granted by the authority;
(b) current or recently current applications to the authority for licences;
(c) applications made to the authority under section 37 above for the modification of licences;
(d) notices issued by the authority under section 37 above effecting the modification of licences;
(e) notices issued by the authority under section 38 above effecting the revocation or suspension of licences or imposing requirements on the holders of licences;
(f) appeals under section 43 above relating to decisions of the authority;
(g) certificates of completion issued by the authority under section 39(9) above;
(h) notices issued by the authority imposing requirements on the holders of licences under section 42(5) above;
(i) convictions of the holders of licences granted by the authority for any offence under this Part (whether in relation to a licence so granted or not);
(j) the occasions on which the authority has discharged any function under section 42 or 61 above;

(k) directions given to the authority under any provision of this Part by the Secretary of State;

(l) **[…]**[1]

(m) such matters relating to the treatment, keeping or disposal of waste in the area of the authority or any pollution of the environment caused thereby as may be prescribed;

and any other document or information required to be kept in the register under any provision of this Act.

(2) Where information of any description is excluded from any register by virtue of section 66 below, a statement shall be entered in the register indicating the existence of information of that description.

[(2A) The Secretary of State may give to a waste regulation authority directions requiring the removal from any register of its of any specified information not prescribed for inclusion under subsection (1) above or which, by virtue of section 65 or 66 below, ought to be excluded from the register. **]** [2]

(3) For the purposes of subsection (1) above licences are "recently" current for the period of twelve months after they cease to be in force and applications for licences are "recently" current if they relate to a licence which is current or recently current or, in the case of an application which is rejected, for the period of twelve months beginning with the date on which the waste regulation authority gives notice of rejection or, as the case may be, on which the application is deemed by section 36(9) above to have been rejected.

(4) It shall be the duty of each waste collection authority in England **[** or Wales **]** [3] **[…]**[4] to maintain a register containing prescribed particulars of such information contained in any register maintained under subsection (1) above as relates to the treatment, keeping or disposal of controlled waste in the area of the authority.

[(5) The waste regulation authority in relation to England and Wales shall furnish any waste collection authorities in its area with the particulars necessary to enable them to discharge their duty under subsection (4) above. **]** [5]

(6) Each waste regulation authority and waste collection authority **[—]** [6]

[(a) shall secure that any register maintained under this section is open to inspection **[…]**[7] by members of the public free of charge at all reasonable hours and

(b) shall afford to members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register

and, for the purposes of this subsection, places may be prescribed by the Secretary of State at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question. **]** [6]

(7) Registers under this section may be kept in any form.

(8) In this section "prescribed" means prescribed in regulations by the Secretary of State.

Notes

1 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

2 Added by Environment Act 1995 c. 25 Sch.22 para.82(2) (April 1, 1996)

3 Words inserted by Environment Act 1995 c. 25 Sch.22 para.82(3)(a) (April 1, 1996)

4 Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

5 Substituted by Environment Act 1995 c. 25 Sch.22 para.82(4) (April 1, 1996)

[6] Existing text renumbered as s.64(6)(a), words are inserted and s.64(6)(b) is added by Environment Act 1995 c. 25 Sch.22 para.82(5) (September 21, 1995 for the purpose of conferring power on the Secretary of State to make regulations or make provision with respect to the exercise of any such power; April 1, 1996 otherwise)

[7] Words repealed by Environment Act 1995 (Consequential Amendments) Regulations 1996/593 Sch.2 para.6 (April 1, 1996)

England and Wales

[...][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 64(1): February 18, 1993 (SI 1993/274 art. 2(1); SI 1994/1096 art. 2(1))

Pt II s. 64(2): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 64(2A): Date not available

Pt II s. 64(3): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 64(4): February 18, 1993 (SI 1993/274 art. 2(1))

Pt II s. 64(5)-(7): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 64(8): February 18, 1993 (SI 1993/274 art. 2(1))

Extent

Pt II s. 64(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

65.— Exclusion from registers of information affecting national security.

(1) No information shall be included in a register maintained under section 64 above (a "register") if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which subsection (1) above applies, give to the authorities maintaining registers directions—

(a) specifying information, or descriptions of information, to be excluded from their registers; or

(b) specifying descriptions of information to be referred to the Secretary of State for his determination;

and no information referred to the Secretary of State in pursuance of paragraph (b) above shall be included in any such register until the Secretary of State determines that it should be so included.

(3) An authority maintaining a register shall notify the Secretary of State of any information it excludes from the register in pursuance of directions under subsection (2) above.

(4) A person may, as respects any information which appears to him to be information to which subsection (1) above may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

(a) he shall notify the authority concerned that he has done so; and

(b) no information so notified to the Secretary of State shall be included in the register kept by that authority until the Secretary of State has determined that it should be so included.

England and Wales

[...][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 65(1): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 65(2): February 18, 1993 insofar as it enables the Secretary of State to give directions; May 1, 1994 otherwise (SI 1993/274 art. 2(2); SI 1994/1096 art. 2, art. 2(1))

Pt II s. 65(3)-(4): May 1, 1994 (SI 1994/1096 art. 2(1))

Extent

Pt II s. 65(1)-(4)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

66.— Exclusion from registers of certain confidential information.

(1) No information relating to the affairs of any individual or business shall be included in a register maintained under section 64 above (a "register"), without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

(a) is, in relation to him, commercially confidential; and

(b) is not required to be included in the register in pursuance of directions under subsection (7) below;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by the authority maintaining the register or, on appeal, by the Secretary of State.

(2) Where information is furnished to an authority maintaining a register for the purpose of—

(a) an application for, or for the modification of, a licence;

(b) complying with any condition of a licence; or

(c) complying with a notice under section 71(2) below;

then, if the person furnishing it applies to the authority to have the information excluded from the register on the ground that it is commercially confidential (as regards himself or another person), the authority shall determine whether the information is or is not commercially confidential.

(3) A determination under subsection (2) above must be made within the period of fourteen days beginning with the date of the application and if the authority fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to an authority maintaining a register that any information (other than information furnished in circumstances within subsection (2) above) which has been obtained by the authority under or by virtue of any provision of this Part might be commercially confidential, the authority shall—

(a) give to the person to whom or whose business it relates notice that that information is required to be included in the register unless excluded under this section; and

(b) give him a reasonable opportunity—

(i) of objecting to the inclusion of the information on the grounds that it is commercially confidential; and

(ii) of making representations to the authority for the purpose of justifying any such objection;

and, if any representations are made, the authority shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(5) Where, under subsection (2) or (4) above, an authority determines that information is not commercially confidential—

(a) the information shall not be entered in the register until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned;

(b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered in the register **[** until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn **]**[1] .

[(6) Subsections (2) and (8) of section 43 above shall apply in relation to appeals under subsection (5) above as they apply in relation to appeals under that section; but

(a) subsection (2)(c) of that section shall have effect for the purposes of this section with the substitution for the words from "(which may" onwards of the words "(which must be held in private)"; and

(b) subsection (5) above is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

] [2]

(7) The Secretary of State may give to the authorities maintaining registers directions as to specified information, or descriptions of information, which the public interest requires to be included in the registers notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to the authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the authority shall determine whether or not that is the case.

(9) Subsections (5) and (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) or (4) above.

(10) The Secretary of State may, by order, substitute for the period for the time being specified in subsection (3) above such other period as he considers appropriate.

(11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

Notes

[1] Words added by Environment Act 1995 c. 25 Sch.22 para.83(1) (April 1, 1996)

[2] Substituted by Environment Act 1995 c. 25 Sch.22 para.83(2) (April 1, 1996)

England and Wales

[…][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 66(1)-(6): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 66(7): February 18, 1993 insofar as it enables the Secretary of State to give directions; May 1, 1994 otherwise (SI 1993/274 art. 2(2); SI 1994/1096 art. 2, art. 2(1))

Pt II s. 66(8)-(11): May 1, 1994 (SI 1994/1096 art. 2(1))

Extent

Pt II s. 66(1)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

67.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Supervision and enforcement

Repealed

68.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Repealed

69.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Repealed

70.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Law In Force

Scotland

71.— Obtaining of information from persons and authorities.

(1) **[…]**[1]

(2) For the purpose of the discharge of their respective functions under this Part—

(a) the Secretary of State, and

(b) a waste regulation authority,

may, by notice in writing served on him, require any person to furnish such information specified in the notice as the Secretary of State or the authority, as the case may be, reasonably considers he or it needs, in such form and within such period following service of the notice **[** , or at such time, **]** [2] as is so specified.

(3) A person who—

(a) fails, without reasonable excuse, to comply with a requirement imposed under subsection (2) above; or

(b) **[…]**[3]

shall be liable—

(i) on summary conviction, to a fine not exceeding the statutory maximum;

(ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

[(4) The Secretary of State may, by notice in writing, require a waste regulation authority or waste collection authority in England and Wales to supply to him, or to such other person as may be specified in the notice, such information as may be so specified in respect of–

(a) cases where the authority has exercised any powers under section 59 above, and

(b) cases where the authority has taken action under any other enactment in respect of any deposit or other disposal of controlled waste in contravention of section 33(1) above.

] [4]

[(5) Nothing in this section is to be read as enabling a person to secure the disclosure by a telecommunications operator or postal operator of communications data without the consent of the operator.

(6) In subsection (5) "communications data" , "postal operator" and "telecommunications operator" have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act). **]** [5]

Notes

1 Repealed by Environment Act 1995 c. 25 Sch.22 para.86(1) (April 1, 1996)

2 Words added by Environment Act 1995 c. 25 Sch.22 para.86(2) (April 1, 1996)

3 Word repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

4 Added by Anti-social Behaviour Act 2003 c. 38 Pt 6 s.55(5) (March 31, 2004: SI 2004/999)

5 Added by Investigatory Powers Act 2016 c. 25 Sch.2 para.4 (July 22, 2020: insertion has effect subject to savings specified in 2016 c.25 s.270 and Sch.9 paras 7 and 10)

[71.— Obtaining of information from persons and authorities.

(2) For the purpose of the discharge of their respective functions under this Part—

(a) the Secretary of State, and

(b) a waste regulation authority,

may, by notice in writing served on him, require any person to furnish such information specified in the notice as the Secretary of State or the authority, as the case may be, reasonably considers he or it needs, in such form and within such period following service of the notice, or at such time, as is so specified.

(2A) A waste collection authority has the power referred to in subsection (2) for the purpose of the discharge of its functions under sections 34B and 34C above.

(3) A person who—

(a) fails, without reasonable excuse, to comply with a requirement imposed under subsection (2) or (2A) above; or

shall be liable—

(i) on summary conviction, to a fine not exceeding the statutory maximum;

(ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) The Secretary of State may, by notice in writing, require a waste regulation authority or waste collection authority in England and Wales to supply to him, or to such other person as may be specified in the notice, such information as may be so specified in respect of–

(a) cases where the authority has exercised any powers under **[** section 59, 59ZA, 59ZB or 59ZC **]** [2] above, and

(b) cases where the authority has taken action under any other enactment in respect of any deposit or other disposal of controlled waste in contravention of section 33(1) above.

[(5) Nothing in this section is to be read as enabling a person to secure the disclosure by a telecommunications operator or postal operator of communications data without the consent of the operator.

(6) In subsection (5) "communications data" , "postal operator" and "telecommunications operator" have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act). **]** [3]

] [1]

Notes

1 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(2) (March 3, 2015: substitution has effect on March 3, 2015 in relation to England for the purpose of making regulations and issuing guidance; April 6, 2015 otherwise)

2 Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.4 (May 8, 2018)

3 Added by Investigatory Powers Act 2016 c. 25 Sch.2 para.4 (July 22, 2020: insertion has effect subject to savings specified in 2016 c.25 s.270 and Sch.9 paras 7 and 10)

Wales

[71.— Obtaining of information from persons and authorities.

(2) For the purpose of the discharge of their respective functions under this Part—

(a) the Secretary of State, and

(b) a waste regulation authority,

may, by notice in writing served on him, require any person to furnish such information specified in the notice as the Secretary of State or the authority, as the case may be, reasonably considers he or it needs, in such form and within such period following service of the notice, or at such time, as is so specified.

(2A) A waste collection authority has the power referred to in subsection (2) for the purpose of the discharge of its functions under sections 34B and 34C above.

(3) A person who—

(a) fails, without reasonable excuse, to comply with a requirement imposed under subsection (2) or (2A) above; or

shall be liable—

(i) on summary conviction, to a fine not exceeding the statutory maximum;

(ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) The Secretary of State may, by notice in writing, require a waste regulation authority or waste collection authority in England and Wales to supply to him, or to such other person as may be specified in the notice, such information as may be so specified in respect of–

(a) cases where the authority has exercised any powers under **[** section 59, 59ZA, 59ZB or 59ZC **]** [2] above, and

(b) cases where the authority has taken action under any other enactment in respect of any deposit or other disposal of controlled waste in contravention of section 33(1) above.

[(5) Nothing in this section is to be read as enabling a person to secure the disclosure by a telecommunications operator or postal operator of communications data without the consent of the operator.

(6) In subsection (5) "communications data" , "postal operator" and "telecommunications operator" have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act). **]** [3]

] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.46(2) (March 16, 2006 as SI 2006/768)

[2] Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.4 (May 8, 2018)

[3] Added by Investigatory Powers Act 2016 c. 25 Sch.2 para.4 (July 22, 2020: insertion has effect subject to savings specified in 2016 c.25 s.270 and Sch.9 paras 7 and 10)

Commencement

Pt II s. 71: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt II s. 71(1)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

72.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Supplemental

Law In Force

73.— Appeals and other provisions relating to legal proceedings and civil liability.

(1) An appeal against any decision of a magistrates' court under this Part (other than a decision made in criminal proceedings) shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Crown Court by virtue of any other enactment.

(2) In Scotland an appeal against any decision of the sheriff under this Part (other than a decision made in criminal proceedings) shall lie to the Court of Session at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Court of Session by virtue of any other enactment.

(3) Where a person appeals to the Crown Court or the Court of Session against a decision of a magistrates' court or the sheriff dismissing an appeal against any requirement imposed under this Part which was suspended pending determination of that appeal, the requirement shall again be suspended pending the determination of the appeal to the Crown Court or Court of Session.

(4) Where an appeal against a decision of any authority lies to a magistrates' court or to the sheriff by virtue of any provision of this Part, it shall be the duty of the authority to include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies and specifying the time within which it must be brought.

(5) Where on an appeal to any court against or arising out of a decision of any authority under this Part the court varies or reverses the decision it shall be the duty of the authority to act in accordance with the court's decision.

(6) Where any damage is caused by waste which has been deposited in or on land, any person who deposited it, or knowingly caused or knowingly permitted it to be deposited, in either case so as to commit an offence under section 33(1) or 63(2) above, is liable for the damage except where the damage—

(a) was due wholly to the fault of the person who suffered it; or

(b) was suffered by a person who voluntarily accepted the risk of the damage being caused;

but without prejudice to any liability arising otherwise than under this subsection.

(7) The matters which may be proved by way of defence under section 33(7) above may be proved also by way of defence to an action brought under subsection (6) above.

(8) In subsection (6) above—

"damage" includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition); and

"fault" has the same meaning as in the Law Reform (Contributory Negligence) Act 1945.

(9) For the purposes of the following enactments—

(a) the Fatal Accidents Act 1976;

(b) the Law Reform (Contributory Negligence) Act 1945; and

(c) the Limitation Act 1980;

and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (6) above shall be treated as due to his fault.

[(10) In subsection (2) above, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [1]

Notes

[1] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(5) (June 30, 2014)

Commencement

Pt II s. 73(1)-(5): April 1, 1992 (SI 1992/266 art. 3)

Pt II s. 73(6)-(9): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 73(10): Date not available

Extent

Pt II s. 73(1)-(9)(c): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 73(10): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[73A Use of fixed penalty receipts

(1) The Environment Agency must pay amounts received by it under **[** section 34ZA or 34A **]** [2] above to the Secretary of State.

[(1A) The Natural Resources Body for Wales must pay amounts received by it under **[** section 34ZB or 34A **]** [4] above to the Welsh Ministers. **]** [3]

(2) A waste collection authority may use amounts received by it under **[** section 33ZA, 33ZB, 34ZA, 34ZB, 34A, 46A or 47ZA **]** [5] above (its "fixed penalty receipts") only for the purposes of–

(a) its functions under this Part (including functions relating to the enforcement of offences under this Part); and

(b) such other of its functions as may be specified in regulations made by the appropriate person.

(3) Regulations under subsection (2)(b) above may (in particular) have the effect that a waste collection authority may use its fixed penalty receipts for the purposes of any of its functions.

(4) A waste collection authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.

(5) The appropriate person may by regulations–

(a) make provision for what a waste collection authority is to do with its fixed penalty receipts–

(i) pending their being used for the purposes of functions of the authority referred to in subsection (2) above;

(ii) if they are not so used before such time after their receipt as may be specified by the regulations;

(b) make provision for accounting arrangements in respect of a waste collection authority's fixed penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the waste collection authority.

(7) Before making regulations under this section, the appropriate person must consult–

(a) the waste collection authorities to which the regulations are to apply;

(b) such other persons as the appropriate person thinks fit.

(8) Regulations under this section may make different provision for different purposes (including different provision in relation to different authorities or different descriptions of authority).

(9) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003, to be regarded as included among the powers mentioned in subsection (2) of that section.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.52 (April 6, 2006 as SI 2006/795)

[2] Words inserted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 2 reg.3(3)(a) (January 7, 2019)

[3] Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.215 (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[4] Words inserted by Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019/331 reg.2(3)(a) (February 21, 2019)

[5] Word inserted by Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019/331 reg.2(3)(b) (February 21, 2019)

Wales

[73A Use of fixed penalty receipts

(1) The Environment Agency must pay amounts received by it under **[** section 34ZA or 34A **]** [2] above to the Secretary of State.

[(1A) The Natural Resources Body for Wales must pay amounts received by it under **[** section 34ZB or 34A **]** [4] above to the Welsh Ministers. **]** [3]

(2) A waste collection authority may use amounts received by it under **[** section 33ZA, 33ZB, 34ZA, 34ZB, 34A, 46A or 47ZA **]** [5] above (its "fixed penalty receipts") only for the purposes of–

(a) its functions under this Part (including functions relating to the enforcement of offences under this Part); and

(b) such other of its functions as may be specified in regulations made by the appropriate person.

(3) Regulations under subsection (2)(b) above may (in particular) have the effect that a waste collection authority may use its fixed penalty receipts for the purposes of any of its functions.

(4) A waste collection authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.

(5) The appropriate person may by regulations–

(a) make provision for what a waste collection authority is to do with its fixed penalty receipts–

(i) pending their being used for the purposes of functions of the authority referred to in subsection (2) above;

(ii) if they are not so used before such time after their receipt as may be specified by the regulations;

(b) make provision for accounting arrangements in respect of a waste collection authority's fixed penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the waste collection authority.

(7) Before making regulations under this section, the appropriate person must consult–

(a) the waste collection authorities to which the regulations are to apply;

(b) such other persons as the appropriate person thinks fit.

(8) Regulations under this section may make different provision for different purposes (including different provision in relation to different authorities or different descriptions of authority).

(9) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003, to be regarded as included among the powers mentioned in subsection (2) of that section.
] [1]

Notes

1 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.52 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

2 Words inserted by Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018/1227 Pt 2 reg.3(3)(a) (January 7, 2019)

3 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.215 (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

4 Words inserted by Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019/331 reg.2(3)(a) (February 21, 2019)

5 Word inserted by Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019/331 reg.2(3)(b) (February 21, 2019)

Extent

Pt II s. 73A(1)-(9): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

74.— Meaning of "fit and proper person".

(1) The following provisions apply for the purposes of the discharge by a waste regulation authority of any function under this Part which requires the authority to determine whether a person is or is not a fit and proper person to hold a waste management licence.

(2) Whether a person is or is not a fit and proper person to hold a licence is to be determined by reference to the carrying on by him of the activities which are or are to be authorised by the licence and the fulfilment of the requirements of the licence.

(3) Subject to subsection (4) below, a person shall be treated as not being a fit and proper person if it appears to the authority—

(a) that he or another relevant person has been convicted of a relevant offence;

(b) that the management of the activities which are or are to be authorised by the licence are not or will not be in the hands of a technically competent person; or

(c) that the person who holds or is to hold the licence has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the licence.

(4) The authority may, if it considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that subsection (3)(a) above applies in his case.

(5) It shall be the duty of waste regulation authorities to have regard to any guidance issued to them by the Secretary of State with respect to the discharge of their functions of making the determinations to which this section applies.

(6) The Secretary of State may, by regulations, prescribe the offences that are relevant for the purposes of subsection (3)(a) above and the qualifications and experience required of a person for the purposes of subsection (3)(b) above.

(7) For the purposes of subsection (3)(a) above, another relevant person shall be treated, in relation to the licence holder or proposed licence holder, as the case may be, as having been convicted of a relevant offence if—

(a) any person has been convicted of a relevant offence committed by him in the course of his employment by the holder or, as the case may be, the proposed holder of the licence or in the course of the carrying on of any business by a partnership one of the members of which was the holder or, as the case may be, the proposed holder of the licence;

[(aa) a partnership has been convicted of a relevant offence committed when the holder or, as the case may be, proposed holder of the licence was a member of that partnership; **]** [1]

(b) a body corporate has been convicted of a relevant offence committed when the holder or, as the case may be, the proposed holder of the licence was a director, manager, secretary or other similar officer of that body corporate; **[…]**[2]

[(ba) where the holder or, as the case may be, proposed holder of the licence is a partnership, a person who is a member of that partnership—

(i) has been convicted of a relevant offence;

(ii) was a member of another partnership at a time when a relevant offence of which that other partnership has been convicted was committed; or

(iii) was a director, manager, secretary, or other similar officer of a body corporate at a time when a relevant offence of which that body corporate has been convicted was committed; or

] [3]

(c) where the holder or, as the case may be, the proposed holder of the licence is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—

(i) has been convicted of a relevant offence; **[…]**[4]

[(ia) was a member of a partnership at a time when a relevant offence of which that partnership has been convicted was committed; or **]** [5]

(ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a relevant offence **[** of **]** [6] which that other body corporate has been convicted was committed.

Notes

1 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.48(a) (June 30, 2014)

2 Word repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.48(b) (June 30, 2014)

3 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.48(c) (June 30, 2014)

4 Word repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.48(d)(i) (June 30, 2014)

5 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.48(d)(ii) (June 30, 2014)

[6] Word substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.48(d)(iii) (June 30, 2014)

England and Wales

[...][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 74(1)-(5): May 1, 1994 (SI 1994/1096 art. 2(1))

Pt II s. 74(6): February 18, 1993 (SI 1993/274 art. 2(1))

Pt II s. 74(7): May 1, 1994 (SI 1994/1096 art. 2(1))

Extent

Pt II s. 74(1)-(7)(a), (7)(b), (7)(c)-(7)(c)(i), (7)(c)(ii): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 74(7)(aa), (7)(ba)-(7)(ba)(iii), (7)(c)(ia): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force With Amendments Pending

England

[75.— Meaning of "waste" and household, commercial and industrial waste and hazardous waste.

(1) The following provisions apply for the interpretation of this Part.

[(1A) "Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by **[** Directive (EU) 2018/851 **]** [3] **[** , and read in accordance with section 75A **]** [4] . **]** [2]

[(2) "Waste" means anything that is waste within the meaning of **[** Article 3(1) of the Waste Framework Directive **]** [6] . **]** [5]

(3) [...]

(4) "Controlled waste" means household, industrial and commercial waste or any such waste.

(5) Subject to subsection (8) below, "household waste" means waste from—

(a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for the purposes of living accommodation;

(b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960) which usually and for the time being is situated on a caravan site (within the meaning of that Act);

(c) a residential home;

(d) premises forming part of a university or school or other educational establishment;

(e) premises forming part of a hospital or which are used to provide a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)).

(6) Subject to subsection (8) below, "industrial waste" means waste from any of the following premises—

(a) any factory (within the meaning of the Factories Act 1961);

(b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;

(c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services;

(d) any premises used for the purposes of, or in connection with, the provision to the public of postal or telecommunications services; or

(e) any mine or quarry or any premises used for agriculture within the meaning of the Agriculture Act 1947[7] .

(7) Subject to subsection (8) below, "commercial waste" means waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—

(a) household waste;

(b) industrial waste; and

(d) waste of any other description prescribed by regulations made by the Secretary of State for the purposes of this paragraph.

(8) Regulations made by the Secretary of State may provide that waste of a description prescribed in the regulations shall be treated for the purposes of provisions of this Part prescribed in the regulations as being or not being household waste or industrial waste or commercial waste; and references to waste in subsection (7) above and this subsection do not include sewage (including matter in or from a privy) except so far as the regulations provide otherwise.

(8A) "Hazardous waste" —

(a) in the application of this Part to England, means any waste which is a hazardous waste for the purposes of the Hazardous Waste (England and Wales) Regulations 2005;

(b) in the application of this Part to Wales means—

(i) any waste listed as a hazardous waste in the Hazardous Waste List;

(ii) any waste listed in regulations made under section 62A(2) above;

(iii) any other waste which displays any of the properties listed in Annex III to Council Directive 91/689/EEC.

(8B) In subsection (8A) "Hazardous Waste List" means the list referred to in the first indent of Article 1(4) of Council Directive 91/689/EEC.

(9) [...]

(10) **[** [...] **]** [5]

(11) **[** [...] **]** [5]

(12) **[** [...] **]** [5]
] [1]

Notes

1 Amended by Waste Management (England and Wales) Regulations 2006/937 reg.2(6) (May 15, 2006)

2 Added by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(a) (March 20, 2019)

3 Words substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 2 reg.3 (October 1, 2020)

4 Words inserted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)

5 Amended by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(8) (March 29, 2011)

6 Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(b)(i) (March 20, 2019)

7 1947 c. 48 (see section 109(3)).

Wales

75.— Meaning of "waste" and household, commercial and industrial waste and hazardous waste.

(1) The following provisions apply for the interpretation of this Part.

[(1A) "Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by **[** Directive (EU) 2018/851 **]** [2] **[** , and read in accordance with section 75A **]** [3] . **]** [1]

[(2) "Waste" means anything that is waste within the meaning of **[** Article 3(1) of the Waste Framework Directive **]** [5] . **]** [4]

(3) [...]

(4) "Controlled waste" means household, industrial and commercial waste or any such waste.

(5) Subject to subsection (8) below, "household waste" means waste from—

(a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for the purposes of living accommodation;

(b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960) which usually and for the time being is situated on a caravan site (within the meaning of that Act);

(c) a residential home;

(d) premises forming part of a university or school or other educational establishment;

(e) premises forming part of a hospital or which are used to provide a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)).

(6) Subject to subsection (8) below, "industrial waste" means waste from any of the following premises—

(a) any factory (within the meaning of the Factories Act 1961);

(b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;
(c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services;
(d) any premises used for the purposes of, or in connection with, the provision to the public of postal or telecommunications services; or
(e) any mine or quarry or any premises used for agriculture within the meaning of the Agriculture Act 1947[6]

(7) Subject to subsection (8) below, "commercial waste" means waste from premises used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—
(a) household waste;
(b) industrial waste; and
(c) [...]
(d) waste of any other description prescribed by regulations made by the Secretary of State for the purposes of this paragraph.

(8) Regulations made by the Secretary of State may provide that waste of a description prescribed in the regulations shall be treated for the purposes of provisions of this Part prescribed in the regulations as being or not being household waste or industrial waste or commercial waste; and references to waste in subsection (7) above and this subsection do not include sewage (including matter in or from a privy) except so far as the regulations provide otherwise.

(8A) "Hazardous waste" —
(a) in the application of this Part to England, means any waste which is a hazardous waste for the purposes of the Hazardous Waste (England and Wales) Regulations 2005;
(b) in the application of this Part to Wales, means any waste which is a hazardous waste for the purposes of the Hazardous Waste (Wales) Regulations 2005.

(8B) [...]

(9) [...]

(10) **[** [...] **]** [4]

(11) **[** [...] **]** [4]

(12) **[** [...] **]** [4]

Notes

1 Added by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(a) (March 20, 2019)

2 Words substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 2 reg.3 (October 1, 2020)

3 Words inserted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)

4 Amended by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(8) (March 29, 2011)

5 Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(b)(i) (March 20, 2019)

6 1947 c. 48 (see section 109(3)).

Scotland

75.— Meaning of "waste" and household, commercial and industrial waste and special waste.

(1) The following provisions apply for the interpretation of this Part.

[(1A) "Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste, as last amended by **[** Directive (EU) 2018/851 **]** [2] **[** , and read in accordance with section 75A **]** [3] . **]** [1]

[(2) "Waste" means—

(a) anything that is waste within the meaning of **[** Article 3(1) of the Waste Framework Directive **]** [5] , as read with Articles 5 and 6, and which is not excluded from the scope of that Directive by Article 2(1), (2) or (3);

[(b) radioactive waste, as defined in paragraph 5 of schedule 8 of the Environmental Authorisations (Scotland) Regulations 2018, the disposal of which falls within one of the activities specified in column 1 of Part 1 of schedule 9 of those Regulations and can be carried on in accordance with the rules specified for that activity; **]** [6]

(c) where land is undergoing on-site remediation of contamination, that land including unexcavated contaminated soil and any contaminated buildings permanently connected with that land.

] [4]

[(2A) "Broker" means any undertaking arranging the recovery or disposal of waste on behalf of others, whether or not such arrangements involve the broker taking physical possession of the waste; and "dealer" means any undertaking which acts in the role of principal to purchase and subsequently sell waste, whether or not this involves the dealer taking physical possession of the waste. **]** [4]

(3) [...]

(4) "Controlled waste" means household, industrial and commercial waste or any such waste.

(5) Subject to subsection (8) below, "household waste" means waste from—

(a) domestic property, that is to say, a building or self-contained part of a building which is used wholly for the purposes of living accommodation;

(b) a caravan (as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960) which usually and for the time being is situated on a caravan site (within the meaning of that Act);

(c) a residential home;

(d) premises forming part of a university or school or other educational establishment;

(e) premises forming part of a hospital or which are used to provide a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)).

(6) Subject to subsection (8) below, "industrial waste" means waste from any of the following premises—

(a) any factory (within the meaning of the Factories Act 1961);

(b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;

(c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services;

(d) any premises used for the purposes of, or in connection with, the provision to the public of postal or telecommunications services; or

(e) any mine or quarry.

(7) Subject to subsection (8) below, "commercial waste" means waste from premises (including premises used for agriculture within the meaning of the Agriculture (Scotland) Act 1948) used wholly or mainly for the purposes of a trade or business or the purposes of sport, recreation or entertainment excluding—

(a) household waste;

(b) industrial waste; and

(c) [...]

(d) waste of any other description prescribed by regulations made by the Secretary of State for the purposes of this paragraph.

[(7A) "Dry recyclable waste" means controlled waste that is—

(a) glass;

(b) metals;

(c) plastics;

(d) paper; or

(e) card (including cardboard,

and dry recyclable waste of the same type (such as glass) is referred to as a "dry waste stream".

(7B) "Food waste" means controlled waste that was at any time food intended for human consumption (even if of no nutritional value), and includes biodegradable waste produced as consequence of the processing or preparation of food, but does not include drink. **]** [7]

(8) Regulations made by the Secretary of State may provide that waste of a description prescribed in the regulations shall be treated for the purposes of provisions of this Part prescribed in the regulations as being or not being household waste or industrial waste or commercial waste; and references to waste in subsection (7) above and this subsection do not include sewage (including matter in or from a privy) except so far as the regulations provide otherwise.

(9) "Special waste" means controlled waste as respects which regulations are in force under section 62 above.

(10) **[** [...] **]** [4]

(12) **[…]**[8]

Notes

1 Added by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(a) (March 20, 2019)

2 Words substituted by Waste (Circular Economy) (Amendment) Regulations 2020/904 Pt 2 reg.3 (October 1, 2020)

3 Words inserted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)

4 Amended by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12) (March 27, 2011)

5 Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(b)(ii) (March 20, 2019)

6 Substituted by Environmental Authorisations (Scotland) Regulations 2018/219 (Scottish SI) Sch.6(1) para.2(2) (September 1, 2018)

7 Added by Waste (Scotland) Regulations 2012/148 (Scottish SI) reg.2(7) (May 17, 2012)

[8] Repealed by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 2 reg.2(6)(c) (March 20, 2019)

Amendments Pending

Pt II s. 75(8A): s.75(8A) to (8C) substituted for s.75(8A) by Environment Act 2021 c. 30, Pt 3 s. 60(3) (date to be appointed)

Commencement

Pt II s. 75: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt II s. 75(1)-(2), (2)(a)-(12)(a), (12)(c): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt II s. 75(2) definition of "holder"-(2) definition of "producer", (12)(b), (12)(d): England, Wales, Scotland

---

Law In Force

[75A.— Modification of the Waste Framework Directive

(1) For the purposes of this Part, the Waste Framework Directive is to be read in accordance with this section.

(2) A reference to one or more member States in a provision of the Waste Framework Directive imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, waste regulation authority or local authority which, immediately before [IP completion day] [2] , was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in respect of England, Wales or Scotland.

(3) Article 2 is to be read as if—

(a) in paragraph 2—

(i) in the words before point (a), for "other Community legislation" there were substituted "retained EU law";

(ii) in points (b) and (c), for "Regulation (EC) No 1774/2002" there were substituted "Regulation (EC) No 1069/2009";

(iii) in point (d), as it extends to England and Wales, for the words from "Directive 2006/21/EC[3] " to the end there were substituted "the Mining Waste Directive";

(iv) for point (d), as it extends to Scotland, there were substituted—

(d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010 (S.S.I. 2010/60)";

(b) in paragraph 3, the words from "Without prejudice" to "Community legislation," were omitted;

(c) paragraph 4 were omitted.

[(4) Article 5 is to be read as if—

(a) in paragraph 1, "Member States shall take appropriate measures to ensure that" were omitted;

(b) after paragraph 1 there were inserted—

"1A.—

Any decision as to whether a substance or object is a by-product must be made—

(a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and

(b) having regard to any guidance published by the appropriate authority or the waste regulation authority for the purposes of this Article.";

(c) paragraphs 2 and 3 were omitted.

(5) Article 6 is to be read as if—

(a) in paragraph 1, "Member States shall take appropriate measures to ensure that" were omitted;

(b) after paragraph 1 there were inserted—

"1A.—

Any decision as to whether a substance or object has ceased to be waste must be made—

(a) in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and

(b) having regard to any guidance published by the appropriate authority or the waste regulation authority for the purposes of this Article.";

(c) in paragraph 2—

(i) the first subparagraph were omitted;

(ii) in the second subparagraph, for "Those detailed criteria" there were substituted "Any detailed criteria set out in guidance as referred to in paragraph 1A";

(iii) the third and fourth subparagraphs were omitted;

(d) paragraph 3 were omitted;

(e) in paragraph 4—

(i) in the first subparagraph—

(aa) in the first sentence, for the words from the beginning to "Member State", there were substituted "Where criteria have not been set out as referred to in paragraph 1A(a), the waste regulation authority";

(bb) the second sentence were omitted;

(ii) in the second subparagraph—

(aa) for "Member States" there were substituted "The waste regulation authority";

(bb) "by competent authorities" were omitted.

(6) Article 7 is to be read as if—

(a) before paragraph 1 there were inserted—

"A1.

In this Article, the "list of waste" means the list contained in the Annex to Commission Decision 2000/532/EC, as that list has effect in England, Wales or Scotland (as the case may be).";

(b) in paragraph 1—

(i) the first and second sentences were omitted;

(ii) for the third sentence there were substituted "The list of waste shall, except as provided in Commission Decision 2000/532/EC, be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.";

(c) paragraphs 2, 3, 6 and 7 were omitted.

] [4]

(7) Annex 3 is to be read as if, in entry HP 9, in the second sentence, "in the Member States" were omitted.

(8) In **[** this section **]** [2] —

"appropriate authority" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

(c) in relation to Scotland, the Scottish Ministers;

"local authority" means—

(a) in England outside Greater London—

(i) a district council,

(ii) a county council, or

(iii) the Council of the Isles of Scilly;

(b) in Greater London—

(i) the council of a London borough,

(ii) the Common Council of the City of London,

(iii) the Sub-Treasurer of the Inner Temple, or

(iv) the Under-Treasurer of the Middle Temple;

(c) in Wales—

(i) a county council, or

(ii) a county borough council;

(d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

] [1]

Notes

[1] Added by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)

[2] Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5 (December 31, 2020: commenced by an amendment)

[3] OJ No L 102, 11.4.2006, p 15, as last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).

[4] Substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 Pt 3 reg.5 (December 31, 2020: commenced by an amendment)

Extent

Pt II s. 75A(1)-(8) definition of "local authority" (d): England, Wales, Scotland

Law In Force

[76. Application to the Isles of Scilly

(1) Subject to the provisions of any order under this section, this Part shall not apply in relation to the Isles of Scilly.

(2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Part to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.

(3) An order under this section may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.

] [1]

Notes

[1] Substituted by Environment Act 1995 c. 25 Pt V s.118(3) (February 1, 1996)

Commencement

Pt II s. 76: Date to be appointed (substituted by 1995 c.25, s. 118(3), never in force) (1995 c. 25 Pt V s. 118(3))

Extent

Pt II s. 76(1)-(3)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

77.— Transition from Control of Pollution Act 1974 to this Part.

(1) This section has effect for the purposes of the transition from the provisions of Part I of the Control of Pollution Act 1974 ("the 1974 Act") to the corresponding provisions of this Part of this Act and in this section—

"existing disposal authority" has the same meaning as in section 32 above;

"existing disposal licence" means a disposal licence under section 5 of the 1974 Act subsisting on the day appointed under section 164(3) below for the repeal of sections 3 to 10 of the 1974 Act and "relevant appointed day for licences" shall be construed accordingly;

"existing disposal plan" means a plan under section 2 of the 1974 Act subsisting on the day appointed under section 164(3) below for the repeal of that section and "relevant appointed day for plans" shall be construed accordingly;

"relevant part of its undertaking", in relation to an existing disposal authority, has the same meaning as in section 32 above; and

"the vesting date", in relation to an existing disposal authority and its waste disposal contractors, means the vesting date under Schedule 2 to this Act.

(2) **[** Subject to section 4 of the Pollution Prevention and Control Act 1999, an **]** [1] existing disposal licence shall, on and after the relevant appointed day for licences, be treated as a site licence until it expires or otherwise ceases to have effect; and accordingly it shall be variable and subject to revocation or suspension under this Part of this Act and may not be surrendered or transferred except under this Part of this Act.

(3) **[…]**[2]

(4) Any existing disposal plan of an existing disposal authority shall, on and after the relevant appointed day for plans, be treated as the plan of that authority under section 50 above and that section shall accordingly have effect as if references in it to "the plan" included the existing disposal plan of that authority.

(5) Subsection (4) above applies to Scotland and, for the purposes of that application, "existing disposal authority" means any authority constituted as a disposal authority for any area before the day appointed for this section to come into force and "that authority" means the waste disposal authority for that area under section 30(2) above.

(6) Subject to subsection (7) below, as respects any existing disposal authority—

(a) the restriction imposed by section 51(1) of this Act on the means whereby the authority arranges for the disposal of controlled waste shall not apply to the authority—

(i) in the case of an authority which transfers the relevant part of its undertaking in accordance with a scheme under Schedule 2 to this Act, until the date which is the vesting date for that authority; and

(ii) in any other case, until the date on which the authority transfers, or ceases itself to carry on, the relevant part of its undertaking or ceases to provide places at which and plant and equipment by means of which controlled waste can be disposed of or deposited for the purposes of disposal; and

(b) on and after that date, section 14(4) of the 1974 Act shall not authorise the authority to arrange for the disposal of controlled waste except by means of arrangements made (in accordance with Part II of Schedule 2 to this Act) with waste disposal contractors.

(7) The Secretary of State may, as respects any existing disposal authority, direct that the restriction imposed by section 51(1) above shall not apply in the case of that authority until such date as he

specifies in the direction and where he does so paragraph (a) of subsection (6) above shall not apply and paragraph (b) shall be read as referring to the date so specified.

(8) In section 14(4) of the 1974 Act, after the words "this subsection", there shall be inserted the words "but subject to subsection (6) of section 77 of the Environmental Protection Act 1990 as respects any time after the date applicable to the authority under paragraph (a) or (b) of that subsection".

(9) As respects any existing disposal authority, until the date which is, under subsection (6)(a) above, the date until which the restriction imposed by section 51(1) of this Act is disapplied,—

(a) the powers conferred on a waste disposal authority by section 55(2)(a) and (b) of this Act as respects the recycling of waste and the use of waste to produce heat or electricity shall be treated as powers which the authority may exercise itself; and

(b) the power conferred on a waste disposal authority by section 48(4) of this Act to object to a waste collection authority having waste recycled where the disposal authority has made arrangements with a waste disposal contractor for the contractor to recycle the waste shall be available to the waste disposal authority where it itself has the waste recycled.

Notes

[1] Words inserted by Pollution Prevention and Control Act 1999 c. 24 Sch.2 para.5 (September 29, 2000: as SSI 2000/322)

[2] Repealed by Statute Law (Repeals) Act 2004 c. 14 Sch.1(13) para.1 (July 22, 2004)

England and Wales

[...][1]

Notes

[1] Repealed by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.23 para.1 (April 6, 2008)

Commencement

Pt II s. 77: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt II s. 77(1)-(9)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

78. This Part and radioactive substances.

Except as provided by regulations made by the Secretary of State under this section, nothing in this Part applies to radioactive waste within the meaning of the **[** Radioactive Substances Act 1993 **]** [1]; but regulations may—

(a) provide for prescribed provisions of this Part to have effect with such modifications as the Secretary of State considers appropriate for the purposes of dealing with such radioactive waste;

(b) make such modifications of the **[** Radioactive Substances Act 1993 **]** [1] and any other Act as the Secretary of State considers appropriate.

Notes

[1] Words substituted by Radioactive Substances Act 1993 c. 12 Sch.4 para.7 (August 27, 1993)

England and Wales

[78. This Part and radioactive substances.

Except as provided by regulations made by the Secretary of State under this section, nothing in this Part applies to radioactive waste within the meaning of Schedule 23 to the Environmental Permitting Regulations (radioactive substances activities); but regulations may—

(a) provide for prescribed provisions of this Part to have effect with such modifications as the Secretary of State considers appropriate for the purposes of dealing with such radioactive waste;

(b) make such modifications of the Environmental Permitting Regulations in relation to such radioactive waste, and any Act or other enactment, as the Secretary of State considers appropriate.

] [1]

Notes

[1] Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(9) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

Commencement

Pt II s. 78: December 13, 1991 (SI 1991/2829 art. 2)

Extent

Pt II s. 78(a)-(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

[PART IIA

CONTAMINATED LAND

][1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force With Amendments Pending

England

[78A.— Preliminary.

(1) The following provisions have effect for the interpretation of this Part.

(2) "Contaminated land" is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that—

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or

[(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused;][2]

and, in determining whether any land appears to be such land, a local authority shall, subject to subsection (5) below, act in accordance with guidance issued by the Secretary of State in accordance with section 78YA below with respect to the manner in which that determination is to be made.

(3) A "special site" is any contaminated land—

(a) which has been designated as such a site by virtue of section 78C(7) or 78D(6) below; and

(b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4) below.

(4) "Harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.

(5) The questions—

(a) what harm [or pollution of controlled waters][2] is to be regarded as "significant",

(b) whether the possibility of significant harm [or of significant pollution of controlled waters][2] being caused is "significant",

(c) [...][2]

shall be determined in accordance with guidance issued for the purpose by the Secretary of State in accordance with section 78YA below.

(6) Without prejudice to the guidance that may be issued under subsection (5) above, guidance under paragraph (a) of that subsection may make provision for different degrees of importance to be assigned to, or for the disregard of,—

(a) different descriptions of living organisms or ecological systems **[**, or of poisonous, noxious or polluting matter or solid waste matter**]**[2] ;

(b) different descriptions of places **[** or controlled waters, or different degrees of pollution**]**[2] ; or

(c) different descriptions of harm to health or property, or other interference;

and guidance under paragraph (b) of that subsection may make provision for different degrees of possibility to be regarded as "significant" (or as not being "significant") in relation to different descriptions of significant harm **[** or of significant pollution**]**[2] .

(7) "Remediation" means—

(a) the doing of anything for the purpose of assessing the condition of—

(i) the contaminated land in question;

(ii) any controlled waters affected by that land; or

(iii) any land adjoining or adjacent to that land;

(b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose—

(i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm, or any **[**significant **]**[2] pollution of controlled waters, by reason of which the contaminated land is such land; or

(ii) of restoring the land or waters to their former state; or

(c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters;

and cognate expressions shall be construed accordingly.

(8) Controlled waters are "affected by" contaminated land if (and only if) it appears to the enforcing authority that the contaminated land in question is, for the purposes of subsection (2) above, in such a condition, by reason of substances in, on or under the land, that **[**significant pollution of those waters is being caused or there is a significant possibility of such pollution being caused**]**[2] .

(9) The following expressions have the meaning respectively assigned to them—

"the appropriate Agency" means —

(a) in relation to England **[…]**[3] , the Environment Agency;

(b) in relation to Scotland, the Scottish Environment Protection Agency;

[(c) in relation to Wales, the Natural Resources Body for Wales; **]**[4]

"appropriate person" means any person who is an appropriate person, determined in accordance with section 78F below, to bear responsibility for any thing which is to be done by way of remediation in any particular case;

"charging notice" has the meaning given by section 78P(3)(b) below;

"controlled waters" —

(a) in relation to England and Wales, has the same meaning as in Part III of the Water Resources Act 1991 **[** except that "ground waters" does not include waters contained in underground strata but above the saturation zone **]**[5] ; and

(b) in relation to Scotland, has the same meaning as in section 30A of the Control of Pollution Act 1974;

"creditor" has the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

"enforcing authority" means —

(a) in relation to a special site, the appropriate Agency;

(b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated;

"heritable security" has the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

"local authority" in relation to England and Wales means —

(a) any unitary authority;

(b) any district council, so far as it is not a unitary authority;

(c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

[(d) the Council of the Isles of Scilly; **]** [6]

and in relation to Scotland means a council for an area constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

"notice" means notice in writing;

"notification" means notification in writing;

"owner", in relation to any land in England and Wales, means a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

"owner", in relation to any land in Scotland, means a person (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive or who would, if the land were let, be entitled to receive, the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted;

"pollution of controlled waters" means the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

"remediation declaration" has the meaning given by section 78H(6) below;

"remediation notice" has the meaning given by section 78E(1) below;

"remediation statement" has the meaning given by section 78H(7) below;

"required to be designated as a special site" shall be construed in accordance with section 78C(8) below;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"unitary authority" means —

(a) the council of a county, so far as it is the council of an area for which there are no district councils;

(b) the council of any district comprised in an area for which there is no county council;

(c) the council of a London borough;
(d) the council of a county borough in Wales.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

[2] Amended by Water Act 2003 c. 37 Pt 3 s.86(2) (April 6, 2012 as SI 2012/264)

[3] Words repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.216(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[4] Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.216(b) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[5] Words inserted by Water Act 2003 c. 37 Pt 3 s.86(2)(f) (October 1, 2004 in relation to England; November 11, 2004 in relation to Wales)

[6] Added by Environmental Protection Act 1990 (Isles of Scilly) Order 2006/1381 art.2(1) (August 4, 2006)

Wales

[78A.— Preliminary.

(1) The following provisions have effect for the interpretation of this Part.

(2) "Contaminated land" is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that—

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or

[(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused; **]** [2]

and, in determining whether any land appears to be such land, a local authority shall, subject to subsection (5) below, act in accordance with guidance issued by the Secretary of State in accordance with section 78YA below with respect to the manner in which that determination is to be made.

(3) A "special site" is any contaminated land—

(a) which has been designated as such a site by virtue of section 78C(7) or 78D(6) below; and

(b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4) below.

(4) "Harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.

(5) The questions—

(a) what harm **[** or pollution of controlled waters **]** [2] is to be regarded as "significant",

(b) whether the possibility of significant harm **[** or of significant pollution of controlled waters **]** [2] being caused is "significant",

(c) **[** [...] **]** [2]

shall be determined in accordance with guidance issued for the purpose by the Secretary of State in accordance with section 78YA below.

(6) Without prejudice to the guidance that may be issued under subsection (5) above, guidance under paragraph (a) of that subsection may make provision for different degrees of importance to be assigned to, or for the disregard of,—

(a) different descriptions of living organisms or ecological systems **[**, or of poisonous, noxious or polluting matter or solid waste matter**]**[2] ;

(b) different descriptions of places **[** or controlled waters, or different degrees of pollution**]**[2] ; or

(c) different descriptions of harm to health or property, or other interference;

and guidance under paragraph (b) of that subsection may make provision for different degrees of possibility to be regarded as "significant" (or as not being "significant") in relation to different descriptions of significant harm **[** or of significant pollution**]**[2] .

(7) "Remediation" means—

(a) the doing of anything for the purpose of assessing the condition of—

(i) the contaminated land in question;

(ii) any controlled waters affected by that land; or

(iii) any land adjoining or adjacent to that land;

(b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose—

(i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm, or any **[**significant **]**[2] pollution of controlled waters, by reason of which the contaminated land is such land; or

(ii) of restoring the land or waters to their former state; or

(c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters;

and cognate expressions shall be construed accordingly.

(8) Controlled waters are "affected by" contaminated land if (and only if) it appears to the enforcing authority that the contaminated land in question is, for the purposes of subsection (2) above, in such a condition, by reason of substances in, on or under the land, that **[**significant pollution of those waters is being caused or there is a significant possibility of such pollution being caused**]**[2] .

(9) The following expressions have the meaning respectively assigned to them—

"the appropriate Agency" means —

(a) in relation to England **[…]**[3] , the Environment Agency;

(b) in relation to Scotland, the Scottish Environment Protection Agency;

[(c) in relation to Wales, the Natural Resources Body for Wales; **]**[4]

"appropriate person" means any person who is an appropriate person, determined in accordance with section 78F below, to bear responsibility for any thing which is to be done by way of remediation in any particular case;

"charging notice" has the meaning given by section 78P(3)(b) below;

"controlled waters" —

(a) in relation to England and Wales, has the same meaning as in Part III of the Water Resources Act 1991 **[** except that "ground waters" does not include waters contained in underground strata but above the saturation zone**]**[5] ; and

(b) in relation to Scotland, has the same meaning as in section 30A of the Control of Pollution Act 1974;

"creditor" has the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

"enforcing authority" means —

(a) in relation to a special site, the appropriate Agency;

(b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated;

"heritable security" has the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

"local authority" in relation to England and Wales means —

(a) any unitary authority;

(b) any district council, so far as it is not a unitary authority;

(c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

[(d) the Council of the Isles of Scilly; **]** [6]

and in relation to Scotland means a council for an area constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

"notice" means notice in writing;

"notification" means notification in writing;

"owner", in relation to any land in England and Wales, means a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

"owner", in relation to any land in Scotland, means a person (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive or who would, if the land were let, be entitled to receive, the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted;

"pollution of controlled waters" means the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

"remediation declaration" has the meaning given by section 78H(6) below;

"remediation notice" has the meaning given by section 78E(1) below;

"remediation statement" has the meaning given by section 78H(7) below;

"required to be designated as a special site" shall be construed in accordance with section 78C(8) below;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"unitary authority" means —

(a) the council of a county, so far as it is the council of an area for which there are no district councils;

(b) the council of any district comprised in an area for which there is no county council;

(c) the council of a London borough;
(d) the council of a county borough in Wales.

] [1]

Notes

[1] Words inserted by Water Act 2003 c. 37 Pt 3 s.86(2)(f) (October 1, 2004 in relation to England; November 11, 2004 in relation to Wales)

[2] Amended by Water Act 2003 c. 37 Pt 3 s.86(2) (April 6, 2012 as SI 2012/284)

[3] Words repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.216(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[4] Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.216(b) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[5] Words inserted by Water Act 2003 c. 37 Pt 3 s.86(2)(f) (November 11, 2004 as SI 2004/2916)

[6] Added by Environmental Protection Act 1990 (Isles of Scilly) Order 2006/1381 art.2(1) (August 4, 2006)

Scotland

[78A.— Preliminary.

(1) The following provisions have effect for the interpretation of this Part.

(2) "Contaminated land" is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that—

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or

[(b) significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused. **]** [2]

and, in determining whether any land appears to be such land, a local authority shall, subject to subsection (5) below, act in accordance with guidance issued by the Secretary of State in accordance with section 78YA below with respect to the manner in which that determination is to be made.

(3) A "special site" is any contaminated land—

(a) which has been designated as such a site by virtue of section 78C(7) or 78D(6) below; and

(b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4) below.

(4) **[** Subject to subsection (4A), "harm" means harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property. **]** [2]

[(4A) "Harm", in relation to the water environment has the same meaning as in section 20(6) of the Water Environment and Water Services (Scotland) Act 2003. **]** [2]

(5) The questions—

(a) what harm **[** or pollution of the water environment **]** [3] is to be regarded as "significant",

(b) whether the possibility of significant harm **[** or of significant pollution of the water environment **]** [3] being caused is "significant",

(c) **[…]**[3]

shall be determined in accordance with guidance issued for the purpose by the Secretary of State in accordance with section 78YA below.

(6) Without prejudice to the guidance that may be issued under subsection (5) above, guidance under paragraph (a) of that subsection may make provision for different degrees of importance to be assigned to, or for the disregard of,—

(a) different descriptions of living organisms or ecological systems **[** or substances which may give rise to pollution **]**[4] ;

(b) different descriptions of places **[** or of the water environment, or different degrees of pollution **]**[4] ; or

(c) different descriptions of harm to health or property, or other interference;

and guidance under paragraph (b) of that subsection may make provision for different degrees of possibility to be regarded as "significant" (or as not being "significant") in relation to different descriptions of significant harm **[** or of significant pollution **]**[4] .

(7) "Remediation" means—

(a) the doing of anything for the purpose of assessing the condition of—

(i) the contaminated land in question;

(ii) **[** the water environment **]**[2] affected by that land; or

(iii) any land adjoining or adjacent to that land;

(b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or **[** the water environment **]**[2] for the purpose—

(i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm, or any **[** significant **]**[2] pollution of **[** the water environment **]**[5] , by reason of which the contaminated land is such land; or

(ii) of restoring the land or **[** water environment to its **]**[2] former state; or

(c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or **[** the water environment **]**[2] ;

and cognate expressions shall be construed accordingly.

(8) **[** The water environment is **]**[2] "affected by" contaminated land if (and only if) it appears to the enforcing authority that the contaminated land in question is, for the purposes of subsection (2) above, in such a condition, by reason of substances in, on or under the land, that **[** significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused **]**[2] .

(9) The following expressions have the meaning respectively assigned to them—

"the appropriate Agency" means —

(a) in relation to England **[…]**[6] , the Environment Agency;

(b) in relation to Scotland, the Scottish Environment Protection Agency;

[(c) in relation to Wales, the Natural Resources Body for Wales; **]**[7]

"appropriate person" means any person who is an appropriate person, determined in accordance with section 78F below, to bear responsibility for any thing which is to be done by way of remediation in any particular case;

"charging notice" has the meaning given by section 78P(3)(b) below;

(a)-(b) **[…]**[2]

"creditor" has the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

"enforcing authority" means —

(a) in relation to a special site, the appropriate Agency;

(b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated;

"heritable security" has the same meaning as in the Conveyancing and Feudal Reform (Scotland) Act 1970;

"local authority" in relation to England and Wales means —

(a) any unitary authority;

(b) any district council, so far as it is not a unitary authority;

(c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

[(d) the Council of the Isles of Scilly; **]** [8]

and in relation to Scotland means a council for an area constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

"notice" means notice in writing;

"notification" means notification in writing;

"owner", in relation to any land in England and Wales, means a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

"owner", in relation to any land in Scotland, means a person (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive or who would, if the land were let, be entitled to receive, the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted;

["pollution", in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances into the water environment, or any part of it, which may give rise to any harm; **]** [2]

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

"remediation declaration" has the meaning given by section 78H(6) below;

"remediation notice" has the meaning given by section 78E(1) below;

"remediation statement" has the meaning given by section 78H(7) below;

"required to be designated as a special site" shall be construed in accordance with section 78C(8) below;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"unitary authority" means —

(a) the council of a county, so far as it is the council of an area for which there are no district councils;

(b) the council of any district comprised in an area for which there is no county council;

(c) the council of a London borough;

(d) the council of a county borough in Wales.

["the water environment" has the same meaning as in section 3 of the Water Environment and Water Services (Scotland) Act 2003; **]** [2]

] [1]

Notes

1 Words inserted by Water Act 2003 c. 37 Pt 3 s.86(2)(f) (October 1, 2004 in relation to England; November 11, 2004 in relation to Wales)

2 Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(3) (December 21, 2005)

3 Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(3)(d) (December 21, 2005)

4 Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(3)(e) (December 21, 2005)

5 Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

6 Words repealed by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.216(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

7 Added by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.216(b) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

8 Added by Environmental Protection Act 1990 (Isles of Scilly) Order 2006/1381 art.2(1) (August 4, 2006)

Amendments Pending

Pt IIA s. 78A(5)(c): repealed by Water Act 2003 c. 37 Sch. 9(3) para. 1 (date to be appointed)

Extent

Pt IIA s. 78A(1)-(4), (5)-(9) definition of "the appropriate Agency" (b), (9) definition of "appropriate person"-(9) definition of "local authority" (c), (9) definition of "notice"-(9) definition of "owner Scotland", (9) definition of "pollution of controlled waters"-(9) definition of "unitary authority" (d): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt IIA s. 78A(4A), (9) definition of "the appropriate Agency" (c), (9) definition of "local authority" (d), (9) definition of "pollution", (9) definition of "the water environment": England, Wales, Scotland

---

Law In Force

[78B.— Identification of contaminated land.

(1) Every local authority shall cause its area to be inspected from time to time for the purpose—

(a) of identifying contaminated land; and

(b) of enabling the authority to decide whether any such land is land which is required to be designated as a special site.

(2) In performing its functions under subsection (1) above a local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State in accordance with section 78YA below.

(3) If a local authority identifies any contaminated land in its area, it shall give notice of that fact to—

(a) the appropriate Agency;

(b) the owner of the land;

(c) any person who appears to the authority to be in occupation of the whole or any part of the land; and

(d) each person who appears to the authority to be an appropriate person;

and any notice given under this subsection shall state by virtue of which of paragraphs (a) to (d) above it is given.

(4) If, at any time after a local authority has given any person a notice pursuant to subsection (3)(d) above in respect of any land, it appears to the enforcing authority that another person is an appropriate person, the enforcing authority shall give notice to that other person—

(a) of the fact that the local authority has identified the land in question as contaminated land; and

(b) that he appears to the enforcing authority to be an appropriate person.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78B(1)-(4)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force

England

[78C.— Identification and designation of special sites.

(1) If at any time it appears to a local authority that any contaminated land in its area might be land which is required to be designated as a special site, the authority—

(a) shall decide whether or not the land is land which is required to be so designated; and

(b) if the authority decides that the land is land which is required to be so designated, shall give notice of that decision to the relevant persons.

(2) For the purposes of this section, "the relevant persons" at any time in the case of any land are the persons who at that time fall within paragraphs (a) to (d) below, that is to say—

(a) the appropriate Agency;

(b) the owner of the land;

(c) any person who appears to the local authority concerned to be in occupation of the whole or any part of the land; and

(d) each person who appears to that authority to be an appropriate person.

(3) Before making a decision under paragraph (a) of subsection (1) above in any particular case, a local authority shall request the advice of the appropriate Agency, and in making its decision shall have regard to any advice given by that Agency in response to the request.

(4) If at any time the appropriate Agency considers that any contaminated land is land which is required to be designated as a special site, that Agency may give notice of that fact to the local authority in whose area the land is situated.

(5) Where notice under subsection (4) above is given to a local authority, the authority shall decide whether the land in question—

(a) is land which is required to be designated as a special site, or

(b) is not land which is required to be so designated, and shall give notice of that decision to the relevant persons.

(6) Where a local authority makes a decision falling within subsection (1)(b) or (5)(a) above, the decision shall, subject to section 78D below, take effect on the day after whichever of the following events first occurs, that is to say—

(a) the expiration of the period of twenty-one days beginning with the day on which the notice required by virtue of subsection (1)(b) or, as the case may be, (5)(a) above is given to the appropriate Agency; or

(b) if the appropriate Agency gives notification to the local authority in question that it agrees with the decision, the giving of that notification;

and where a decision takes effect by virtue of this subsection, the local authority shall give notice of that fact to the relevant persons.

(7) Where a decision that any land is land which is required to be designated as a special site takes effect in accordance with subsection (6) above, the notice given under subsection (1)(b) or, as the case may be, (5)(a) above shall have effect, as from the time when the decision takes effect, as the designation of that land as such a site.

(8) For the purposes of this Part, land is required to be designated as a special site if, and only if, it is land of a description prescribed for the purposes of this subsection.

(9) Regulations under subsection (8) above may make different provision for different cases or circumstances or different areas or localities and may, in particular, describe land by reference to the area or locality in which it is situated.

(10) Without prejudice to the generality of his power to prescribe any description of land for the purposes of subsection (8) above, the Secretary of State, in deciding whether to prescribe a particular description of contaminated land for those purposes, may, in particular, have regard to—

(a) whether land of the description in question appears to him to be land which is likely to be in such a condition, by reason of substances in, on or under the land that—

(i) serious harm would or might be caused, or

(ii) serious pollution of controlled waters would **[** or might be caused **]** [2] ; or

(b) whether the appropriate Agency is likely to have expertise in dealing with the kind of significant harm, or **[** significant **]** [2] pollution of controlled waters, by reason of which land of the description in question is contaminated land.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

[2] Amended by Water Act 2003 c. 37 Pt 3 s.86(3) (April 6, 2012 as SI 2012/264)

Wales

[78C.— Identification and designation of special sites.

(1) If at any time it appears to a local authority that any contaminated land in its area might be land which is required to be designated as a special site, the authority—

(a) shall decide whether or not the land is land which is required to be so designated; and

(b) if the authority decides that the land is land which is required to be so designated, shall give notice of that decision to the relevant persons.

(2) For the purposes of this section, "the relevant persons" at any time in the case of any land are the persons who at that time fall within paragraphs (a) to (d) below, that is to say—

(a) the appropriate Agency;

(b) the owner of the land;

(c) any person who appears to the local authority concerned to be in occupation of the whole or any part of the land; and

(d) each person who appears to that authority to be an appropriate person.

(3) Before making a decision under paragraph (a) of subsection (1) above in any particular case, a local authority shall request the advice of the appropriate Agency, and in making its decision shall have regard to any advice given by that Agency in response to the request.

(4) If at any time the appropriate Agency considers that any contaminated land is land which is required to be designated as a special site, that Agency may give notice of that fact to the local authority in whose area the land is situated.

(5) Where notice under subsection (4) above is given to a local authority, the authority shall decide whether the land in question—

(a) is land which is required to be designated as a special site, or

(b) is not land which is required to be so designated, and shall give notice of that decision to the relevant persons.

(6) Where a local authority makes a decision falling within subsection (1)(b) or (5)(a) above, the decision shall, subject to section 78D below, take effect on the day after whichever of the following events first occurs, that is to say—

(a) the expiration of the period of twenty-one days beginning with the day on which the notice required by virtue of subsection (1)(b) or, as the case may be, (5)(a) above is given to the appropriate Agency; or

(b) if the appropriate Agency gives notification to the local authority in question that it agrees with the decision, the giving of that notification;

and where a decision takes effect by virtue of this subsection, the local authority shall give notice of that fact to the relevant persons.

(7) Where a decision that any land is land which is required to be designated as a special site takes effect in accordance with subsection (6) above, the notice given under subsection (1)(b) or, as the case may be, (5)(a) above shall have effect, as from the time when the decision takes effect, as the designation of that land as such a site.

(8) For the purposes of this Part, land is required to be designated as a special site if, and only if, it is land of a description prescribed for the purposes of this subsection.

(9) Regulations under subsection (8) above may make different provision for different cases or circumstances or different areas or localities and may, in particular, describe land by reference to the area or locality in which it is situated.

(10) Without prejudice to the generality of his power to prescribe any description of land for the purposes of subsection (8) above, the Secretary of State, in deciding whether to prescribe a particular description of contaminated land for those purposes, may, in particular, have regard to—

(a) whether land of the description in question appears to him to be land which is likely to be in such a condition, by reason of substances in, on or under the land that—

(i) serious harm would or might be caused, or

(ii) serious pollution of controlled waters would or might be caused; or

(b) whether the appropriate Agency is likely to have expertise in dealing with the kind of significant harm, or significant pollution of controlled waters, by reason of which land of the description in question is contaminated land.

] [1]

Notes

[1] Amended by Water Act 2003 c. 37 Pt 3 s.86(3) (April 6, 2012 as SI 2012/284)

Scotland

[78C.— Identification and designation of special sites.

(1) If at any time it appears to a local authority that any contaminated land in its area might be land which is required to be designated as a special site, the authority—

(a) shall decide whether or not the land is land which is required to be so designated; and

(b) if the authority decides that the land is land which is required to be so designated, shall give notice of that decision to the relevant persons.

(2) For the purposes of this section, “the relevant persons” at any time in the case of any land are the persons who at that time fall within paragraphs (a) to (d) below, that is to say—

(a) the appropriate Agency;

(b) the owner of the land;

(c) any person who appears to the local authority concerned to be in occupation of the whole or any part of the land; and

(d) each person who appears to that authority to be an appropriate person.

(3) Before making a decision under paragraph (a) of subsection (1) above in any particular case, a local authority shall request the advice of the appropriate Agency, and in making its decision shall have regard to any advice given by that Agency in response to the request.

(4) If at any time the appropriate Agency considers that any contaminated land is land which is required to be designated as a special site, that Agency may give notice of that fact to the local authority in whose area the land is situated.

(5) Where notice under subsection (4) above is given to a local authority, the authority shall decide whether the land in question—

(a) is land which is required to be designated as a special site, or

(b) is not land which is required to be so designated, and shall give notice of that decision to the relevant persons.

(6) Where a local authority makes a decision falling within subsection (1)(b) or (5)(a) above, the decision shall, subject to section 78D below, take effect on the day after whichever of the following events first occurs, that is to say—

(a) the expiration of the period of twenty-one days beginning with the day on which the notice required by virtue of subsection (1)(b) or, as the case may be, (5)(a) above is given to the appropriate Agency; or

(b) if the appropriate Agency gives notification to the local authority in question that it agrees with the decision, the giving of that notification;

and where a decision takes effect by virtue of this subsection, the local authority shall give notice of that fact to the relevant persons.

(7) Where a decision that any land is land which is required to be designated as a special site takes effect in accordance with subsection (6) above, the notice given under subsection (1)(b) or, as the case may be, (5)(a) above shall have effect, as from the time when the decision takes effect, as the designation of that land as such a site.

(8) For the purposes of this Part, land is required to be designated as a special site if, and only if, it is land of a description prescribed for the purposes of this subsection.

(9) Regulations under subsection (8) above may make different provision for different cases or circumstances or different areas or localities and may, in particular, describe land by reference to the area or locality in which it is situated.

(10) Without prejudice to the generality of his power to prescribe any description of land for the purposes of subsection (8) above, the Secretary of State, in deciding whether to prescribe a particular description of contaminated land for those purposes, may, in particular, have regard to—

(a) whether land of the description in question appears to him to be land which is likely to be in such a condition, by reason of substances in, on or under the land that—

(i) serious harm would or might be caused, or

(ii) serious pollution of the water environment would or might be caused;

(b) whether the appropriate Agency is likely to have expertise in dealing with the kind of significant harm, or significant pollution of **[** the water environment **]** [2] , by reason of which land of the description in question is contaminated land.

] [1]

Notes

[1] Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(4) (April 1, 2006)

[2] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78C(1)-(10)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78D.— Referral of special site decisions to the Secretary of State.

(1) In any case where—

(a) a local authority gives notice of a decision to the appropriate Agency pursuant to subsection (1)(b) or (5)(b) of section 78C above, but

(b) before the expiration of the period of twenty-one days beginning with the day on which that notice is so given, that Agency gives the local authority notice that it disagrees with the decision, together with a statement of its reasons for disagreeing,

the authority shall refer the decision to the Secretary of State and shall send to him a statement of its reasons for reaching the decision.

(2) Where the appropriate Agency gives notice to a local authority under paragraph (b) of subsection (1) above, it shall also send to the Secretary of State a copy of the notice and of the statement given under that paragraph.

(3) Where a local authority refers a decision to the Secretary of State under subsection (1) above, it shall give notice of that fact to the relevant persons.

(4) Where a decision of a local authority is referred to the Secretary of State under subsection (1) above, he—

(a) may confirm or reverse the decision with respect to the whole or any part of the land to which it relates; and

(b) shall give notice of his decision on the referral—

(i) to the relevant persons; and

(ii) to the local authority.

(5) Where a decision of a local authority is referred to the Secretary of State under subsection (1) above, the decision shall not take effect until the day after that on which the Secretary of State gives the notice required by subsection (4) above to the persons there mentioned and shall then take effect as confirmed or reversed by him.

(6) Where a decision which takes effect in accordance with subsection (5) above is to the effect that at least some land is land which is required to be designated as a special site, the notice given under subsection (4)(b) above shall have effect, as from the time when the decision takes effect, as the designation of that land as such a site.

(7) In this section "the relevant persons" has the same meaning as in section 78C above.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78D(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force

England

[78E.— Duty of enforcing authority to require remediation of contaminated land etc.

(1) In any case where—

(a) any land has been designated as a special site by virtue of section 78C(7) or 78D(6) above, or

(b) a local authority has identified any contaminated land (other than a special site) in its area,

the enforcing authority shall, in accordance with such procedure as may be prescribed and subject to the following provisions of this Part, serve on each person who is an appropriate person a notice (in this Part referred to as a "remediation notice") specifying what that person is to do by way of remediation and the periods within which he is required to do each of the things so specified.

(2) Different remediation notices requiring the doing of different things by way of remediation may be served on different persons in consequence of the presence of different substances in, on or under any land or waters.

(3) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, the remediation notice served on each of them shall state the proportion, determined under section 78F(7) below, of the cost of doing that thing which each of them respectively is liable to bear.

(4) The only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of this Part are things which it considers reasonable, having regard to—

(a) the cost which is likely to be involved; and

(b) the seriousness of the harm, or **[** of the **]**[2] pollution of controlled waters, in question.

(5) In determining for any purpose of this Part—

(a) what is to be done (whether by an appropriate person, the enforcing authority or any other person) by way of remediation in any particular case,

(b) the standard to which any land is, or waters are, to be remediated pursuant to the notice, or

(c) what is, or is not, to be regarded as reasonable for the purposes of subsection (4) above,

the enforcing authority shall have regard to any guidance issued for the purpose by the Secretary of State.

(6) Regulations may make provision for or in connection with—

(a) the form or content of remediation notices; or

(b) any steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a remediation notice.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

[2] Words inserted by Water Act 2003 c. 37 Pt 3 s.86(4) (April 6, 2012 as SI 2012/264)

Wales

[78E.— Duty of enforcing authority to require remediation of contaminated land etc.

(1) In any case where—

(a) any land has been designated as a special site by virtue of section 78C(7) or 78D(6) above, or

(b) a local authority has identified any contaminated land (other than a special site) in its area,

the enforcing authority shall, in accordance with such procedure as may be prescribed and subject to the following provisions of this Part, serve on each person who is an appropriate person a notice (in this Part referred to as a "remediation notice") specifying what that person is to do by way of remediation and the periods within which he is required to do each of the things so specified.

(2) Different remediation notices requiring the doing of different things by way of remediation may be served on different persons in consequence of the presence of different substances in, on or under any land or waters.

(3) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, the remediation notice served on each of them shall state the proportion, determined under section 78F(7) below, of the cost of doing that thing which each of them respectively is liable to bear.

(4) The only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of this Part are things which it considers reasonable, having regard to—

(a) the cost which is likely to be involved; and

(b) the seriousness of the harm, or of the pollution of controlled waters, in question.

(5) In determining for any purpose of this Part—

(a) what is to be done (whether by an appropriate person, the enforcing authority or any other person) by way of remediation in any particular case,

(b) the standard to which any land is, or waters are, to be remediated pursuant to the notice, or

(c) what is, or is not, to be regarded as reasonable for the purposes of subsection (4) above,

the enforcing authority shall have regard to any guidance issued for the purpose by the Secretary of State.

(6) Regulations may make provision for or in connection with—

(a) the form or content of remediation notices; or

(b) any steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a remediation notice.

] [1]

Notes

[1] Words inserted by Water Act 2003 c. 37 Pt 3 s.86(4) (April 6, 2012 as SI 2012/284)

Scotland

[78E.— Duty of enforcing authority to require remediation of contaminated land etc.

(1) In any case where—

(a) any land has been designated as a special site by virtue of section 78C(7) or 78D(6) above, or

(b) a local authority has identified any contaminated land (other than a special site) in its area,

the enforcing authority shall, in accordance with such procedure as may be prescribed and subject to the following provisions of this Part, serve on each person who is an appropriate person a notice (in this Part referred to as a "remediation notice") specifying what that person is to do by way of remediation and the periods within which he is required to do each of the things so specified.

(2) Different remediation notices requiring the doing of different things by way of remediation may be served on different persons in consequence of the presence of different substances in, on or under any land or the water environment.

(3) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, the remediation notice served on each of them shall state the proportion, determined under section 78F(7) below, of the cost of doing that thing which each of them respectively is liable to bear.

(4) The only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of this Part are things which it considers reasonable, having regard to—

(a) the cost which is likely to be involved; and

(b) the seriousness of the harm, or of the pollution of **[** the water environment **]** [2] , in question.

(5) In determining for any purpose of this Part—

(a) what is to be done (whether by an appropriate person, the enforcing authority or any other person) by way of remediation in any particular case,

(b) the standard to which any land, or the water environment is, to be remediated pursuant to the notice, or

(c) what is, or is not, to be regarded as reasonable for the purposes of subsection (4) above, the enforcing authority shall have regard to any guidance issued for the purpose by the Secretary of State.

(6) Regulations may make provision for or in connection with—

(a) the form or content of remediation notices; or

(b) any steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a remediation notice.

] [1]

Notes

[1] Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(5) (April 1, 2006)

[2] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78E(1)-(6)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78F.— Determination of the appropriate person to bear responsibility for remediation.

(1) This section has effect for the purpose of determining who is the appropriate person to bear responsibility for any particular thing which the enforcing authority determines is to be done by way of remediation in any particular case.

(2) Subject to the following provisions of this section, any person, or any of the persons, who caused or knowingly permitted the substances, or any of the substances, by reason of which the contaminated land in question is such land to be in, on or under that land is an appropriate person.

(3) A person shall only be an appropriate person by virtue of subsection (2) above in relation to things which are to be done by way of remediation which are to any extent referable to substances which he caused or knowingly permitted to be present in, on or under the contaminated land in question.

(4) If no person has, after reasonable inquiry, been found who is by virtue of subsection (2) above an appropriate person to bear responsibility for the things which are to be done by way of remediation, the owner or occupier for the time being of the contaminated land in question is an appropriate person.

(5) If, in consequence of subsection (3) above, there are things which are to be done by way of remediation in relation to which no person has, after reasonable inquiry, been found who is an appropriate person by virtue of subsection (2) above, the owner or occupier for the time being of the contaminated land in question is an appropriate person in relation to those things.

(6) Where two or more persons would, apart from this subsection, be appropriate persons in relation to any particular thing which is to be done by way of remediation, the enforcing authority shall determine in accordance with guidance issued for the purpose by the Secretary of State whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing.

(7) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, they shall be liable to bear the cost of doing that thing in proportions determined by the enforcing authority in accordance with guidance issued for the purpose by the Secretary of State.

(8) Any guidance issued for the purposes of subsection (6) or (7) shall be issued in accordance with section 78YA below.

(9) A person who has caused or knowingly permitted any substance ("substance A") to be in, on or under any land shall also be taken for the purposes of this section to have caused or knowingly permitted there to be in, on or under that land any substance which is there as a result of a chemical reaction or biological process affecting substance A.

(10) A thing which is to be done by way of remediation may be regarded for the purposes of this Part as referable to the presence of any substance notwithstanding that the thing in question would not have to be done—

(a) in consequence only of the presence of that substance in any quantity; or

(b) in consequence only of the quantity of that substance which any particular person caused or knowingly permitted to be present.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Scotland

[78F.— Determination of the appropriate person to bear responsibility for remediation.

(1) This section has effect for the purpose of determining who is the appropriate person to bear responsibility for any particular thing which the enforcing authority determines is to be done by way of remediation in any particular case.

(2) Subject to the following provisions of this section, any person, or any of the persons, who caused or knowingly permitted the substances, or any of the substances, by reason of which the contaminated land in question is such land to be in, on or under that land is an appropriate person.

(3) A person shall only be an appropriate person by virtue of subsection (2) above in relation to things which are to be done by way of remediation which are to any extent referable to substances which he caused or knowingly permitted to be present in, on or under the contaminated land in question.

(4) If no person has, after reasonable inquiry, been found who is by virtue of subsection (2) above an appropriate person to bear responsibility for the things which are to be done by way of remediation, the owner or occupier for the time being of the contaminated land in question is an appropriate person.

(5) If, in consequence of subsection (3) above, there are things which are to be done by way of remediation in relation to which no person has, after reasonable inquiry, been found who is an appropriate person by virtue of subsection (2) above, the owner or occupier for the time being of the contaminated land in question is an appropriate person in relation to those things.

(5A) But where the contaminated land is owned or occupied by the Crown by virtue of its having vested as *bona vacantia* in the Crown, or its having fallen to the Crown as *ultimus haeres*, the Crown is not an appropriate person under subsection (4) or (5) for the purposes of this Part.

(6) Where two or more persons would, apart from this subsection, be appropriate persons in relation to any particular thing which is to be done by way of remediation, the enforcing authority shall determine in accordance with guidance issued for the purpose by the Secretary of State whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing.

(7) Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, they shall be liable to bear the cost of doing that thing in proportions determined by the enforcing authority in accordance with guidance issued for the purpose by the Secretary of State.

(8) Any guidance issued for the purposes of subsection (6) or (7) shall be issued in accordance with section 78YA below.

(9) A person who has caused or knowingly permitted any substance ("substance A") to be in, on or under any land shall also be taken for the purposes of this section to have caused or knowingly permitted there to be in, on or under that land any substance which is there as a result of a chemical reaction or biological process affecting substance A.

(10) A thing which is to be done by way of remediation may be regarded for the purposes of this Part as referable to the presence of any substance notwithstanding that the thing in question would not have to be done—

(a) in consequence only of the presence of that substance in any quantity; or

(b) in consequence only of the quantity of that substance which any particular person caused or knowingly permitted to be present.

] [1]

Notes

[1] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.45(2) (June 30, 2014)

Extent

Pt IIA s. 78F(1)-(10)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78G.— Grant of, and compensation for, rights of entry etc.

(1) A remediation notice may require an appropriate person to do things by way of remediation, notwithstanding that he is not entitled to do those things.

(2) Any person whose consent is required before any thing required by a remediation notice may be done shall grant, or join in granting, such rights in relation to any of the relevant land or waters as will enable the appropriate person to comply with any requirements imposed by the remediation notice.

(3) Before serving a remediation notice, the enforcing authority shall reasonably endeavour to consult every person who appears to the authority—

(a) to be the owner or occupier of any of the relevant land or waters, and

(b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights,

concerning the rights which that person may be so required to grant.

(4) Subsection (3) above shall not preclude the service of a remediation notice in any case where it appears to the enforcing authority that the contaminated land in question is in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of controlled waters, being caused.

(5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the appropriate person compensation of such amount as may be determined in such manner as may be prescribed.

(6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A above in relation to compensation under that section.

(7) In this section, “relevant land or waters” means —

(a) the contaminated land in question;

(b) any controlled waters affected by that land; or

(c) any land adjoining or adjacent to that land or those waters.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Scotland

[78G.— Grant of, and compensation for, rights of entry etc.

(1) A remediation notice may require an appropriate person to do things by way of remediation, notwithstanding that he is not entitled to do those things.

(2) Any person whose consent is required before any thing required by a remediation notice may be done shall grant, or join in granting, such rights in relation to any of the relevant land or water environment as will enable the appropriate person to comply with any requirements imposed by the remediation notice.

(3) Before serving a remediation notice, the enforcing authority shall reasonably endeavour to consult every person who appears to the authority—

(a) to be the owner or occupier of any of the relevant land or water environment, and

(b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights,

concerning the rights which that person may be so required to grant.

(4) Subsection (3) above shall not preclude the service of a remediation notice in any case where it appears to the enforcing authority that the contaminated land in question is in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of **[** the water environment **]** [2] , being caused.

(5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the appropriate person compensation of such amount as may be determined in such manner as may be prescribed.

(6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A above in relation to compensation under that section.

(7) In this section, “relevant land or water environment” means–

(a) the contaminated land in question;

(b) the water environment affected by that land; or

(c) any land adjoining or adjacent to that land or water environment.

] [1]

Notes

[1] Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(6) (April 1, 2006)

[2] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78G(1)-(7)(c): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78H.— Restrictions and prohibitions on serving remediation notices.

(1) Before serving a remediation notice, the enforcing authority shall reasonably endeavour to consult—

(a) the person on whom the notice is to be served,

(b) the owner of any land to which the notice relates,

(c) any person who appears to that authority to be in occupation of the whole or any part of the land, and

(d) any person of such other description as may be prescribed,

concerning what is to be done by way of remediation.

(2) Regulations may make provision for, or in connection with, steps to be taken for the purposes of subsection (1) above.

(3) No remediation notice shall be served on any person by reference to any contaminated land during any of the following periods, that is to say—

(a) the period—

(i) beginning with the identification of the contaminated land in question pursuant to section 78B(1) above, and

(ii) ending with the expiration of the period of three months beginning with the day on which the notice required by subsection (3)(d) or, as the case may be, (4) of section 78B above is given to that person in respect of that land;

(b) if a decision falling within paragraph (b) of section 78C(1) above is made in relation to the contaminated land in question, the period beginning with the making of the decision and ending with the expiration of the period of three months beginning with—

(i) in a case where the decision is not referred to the Secretary of State under section 78D above, the day on which the notice required by section 78C(6) above is given, or

(ii) in a case where the decision is referred to the Secretary of State under section 78D above, the day on which he gives the notice required by subsection (4)(b) of that section;

(c) if the appropriate Agency gives a notice under subsection (4) of section 78C above to a local authority in relation to the contaminated land in question, the period beginning with the day on which that notice is given and ending with the expiration of the period of three months beginning with—

(i) in a case where notice is given under subsection (6) of that section, the day on which that notice is given;

(ii) in a case where the authority makes a decision falling within subsection (5)(b) of that section and the appropriate Agency fails to give notice under paragraph (b) of section 78D(1) above, the day following the expiration of the period of twenty-one days mentioned in that paragraph; or

(iii) in a case where the authority makes a decision falling within section 78C(5)(b) above which is referred to the Secretary of State under section 78D above, the day on which the Secretary of State gives the notice required by subsection (4)(b) of that section.

(4) Neither subsection (1) nor subsection (3) above shall preclude the service of a remediation notice in any case where it appears to the enforcing authority that the land in question is in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of controlled waters, being caused.

(5) The enforcing authority shall not serve a remediation notice on a person if and so long as any one or more of the following conditions is for the time being satisfied in the particular case, that is to say—

(a) the authority is satisfied, in consequence of section 78E(4) and (5) above, that there is nothing by way of remediation which could be specified in a remediation notice served on that person;

(b) the authority is satisfied that appropriate things are being, or will be, done by way of remediation without the service of a remediation notice on that person;

(c) it appears to the authority that the person on whom the notice would be served is the authority itself; or

(d) the authority is satisfied that the powers conferred on it by section 78N below to do what is appropriate by way of remediation are exercisable.

(6) Where the enforcing authority is precluded by virtue of section 78E(4) or (5) above from specifying in a remediation notice any particular thing by way of remediation which it would otherwise have specified in such a notice, the authority shall prepare and publish a document (in this Part referred to as a "remediation declaration") which shall record—

(a) the reasons why the authority would have specified that thing; and

(b) the grounds on which the authority is satisfied that it is precluded from specifying that thing in such a notice.

(7) In any case where the enforcing authority is precluded, by virtue of paragraph (b), (c) or (d) of subsection (5) above, from serving a remediation notice, the responsible person shall prepare and publish a document (in this Part referred to as a "remediation statement") which shall record—

(a) the things which are being, have been, or are expected to be, done by way of remediation in the particular case;

(b) the name and address of the person who is doing, has done, or is expected to do, each of those things; and

(c) the periods within which each of those things is being, or is expected to be, done.

(8) For the purposes of subsection (7) above, the "responsible person" is—

(a) in a case where the condition in paragraph (b) of subsection (5) above is satisfied, the person who is doing or has done, or who the enforcing authority is satisfied will do, the things there mentioned; or

(b) in a case where the condition in paragraph (c) or (d) of that subsection is satisfied, the enforcing authority.

(9) If a person who is required by virtue of subsection (8)(a) above to prepare and publish a remediation statement fails to do so within a reasonable time after the date on which a remediation notice specifying the things there mentioned could, apart from subsection (5) above, have been served, the enforcing authority may itself prepare and publish the statement and may recover its reasonable costs of doing so from that person.

(10) Where the enforcing authority has been precluded by virtue only of subsection (5) above from serving a remediation notice on an appropriate person but—

(a) none of the conditions in that subsection is for the time being satisfied in the particular case, and

(b) the authority is not precluded by any other provision of this Part from serving a remediation notice on that appropriate person,

the authority shall serve a remediation notice on that person; and any such notice may be so served without any further endeavours by the authority to consult persons pursuant to subsection (1) above, if and to the extent that that person has been consulted pursuant to that subsection concerning the things which will be specified in the notice.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Scotland

[78H.— Restrictions and prohibitions on serving remediation notices.

(1) Before serving a remediation notice, the enforcing authority shall reasonably endeavour to consult—

(a) the person on whom the notice is to be served,

(b) the owner of any land to which the notice relates,

(c) any person who appears to that authority to be in occupation of the whole or any part of the land, and

(d) any person of such other description as may be prescribed,

concerning what is to be done by way of remediation.

(2) Regulations may make provision for, or in connection with, steps to be taken for the purposes of subsection (1) above.

(3) No remediation notice shall be served on any person by reference to any contaminated land during any of the following periods, that is to say—

(a) the period—

(i) beginning with the identification of the contaminated land in question pursuant to section 78B(1) above, and

(ii) ending with the expiration of the period of three months beginning with the day on which the notice required by subsection (3)(d) or, as the case may be, (4) of section 78B above is given to that person in respect of that land;

(b) if a decision falling within paragraph (b) of section 78C(1) above is made in relation to the contaminated land in question, the period beginning with the making of the decision and ending with the expiration of the period of three months beginning with—

(i) in a case where the decision is not referred to the Secretary of State under section 78D above, the day on which the notice required by section 78C(6) above is given, or

(ii) in a case where the decision is referred to the Secretary of State under section 78D above, the day on which he gives the notice required by subsection (4)(b) of that section;

(c) if the appropriate Agency gives a notice under subsection (4) of section 78C above to a local authority in relation to the contaminated land in question, the period beginning with the day on which that notice is given and ending with the expiration of the period of three months beginning with—

(i) in a case where notice is given under subsection (6) of that section, the day on which that notice is given;

(ii) in a case where the authority makes a decision falling within subsection (5)(b) of that section and the appropriate Agency fails to give notice under paragraph (b) of section 78D(1) above, the day following the expiration of the period of twenty-one days mentioned in that paragraph; or

(iii) in a case where the authority makes a decision falling within section 78C(5)(b) above which is referred to the Secretary of State under section 78D above, the day on which the Secretary of State gives the notice required by subsection (4)(b) of that section.

(4) Neither subsection (1) nor subsection (3) above shall preclude the service of a remediation notice in any case where it appears to the enforcing authority that the land in question is in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of the water environment, being caused.

(5) The enforcing authority shall not serve a remediation notice on a person if and so long as any one or more of the following conditions is for the time being satisfied in the particular case, that is to say—

(a) the authority is satisfied, in consequence of section 78E(4) and (5) above, that there is nothing by way of remediation which could be specified in a remediation notice served on that person;

(b) the authority is satisfied that appropriate things are being, or will be, done by way of remediation without the service of a remediation notice on that person;

(c) it appears to the authority that the person on whom the notice would be served is the authority itself; or

(d) the authority is satisfied that the powers conferred on it by section 78N below to do what is appropriate by way of remediation are exercisable.

(6) Where the enforcing authority is precluded by virtue of section 78E(4) or (5) above from specifying in a remediation notice any particular thing by way of remediation which it would otherwise have specified in such a notice, the authority shall prepare and publish a document (in this Part referred to as a "remediation declaration") which shall record—

(a) the reasons why the authority would have specified that thing; and

(b) the grounds on which the authority is satisfied that it is precluded from specifying that thing in such a notice.

(7) In any case where the enforcing authority is precluded, by virtue of paragraph (b), (c) or (d) of subsection (5) above, from serving a remediation notice, the responsible person shall prepare and publish a document (in this Part referred to as a "remediation statement") which shall record—

(a) the things which are being, have been, or are expected to be, done by way of remediation in the particular case;

(b) the name and address of the person who is doing, has done, or is expected to do, each of those things; and

(c) the periods within which each of those things is being, or is expected to be, done.

(8) For the purposes of subsection (7) above, the "responsible person" is—

(a) in a case where the condition in paragraph (b) of subsection (5) above is satisfied, the person who is doing or has done, or who the enforcing authority is satisfied will do, the things there mentioned; or

(b) in a case where the condition in paragraph (c) or (d) of that subsection is satisfied, the enforcing authority.

(9) If a person who is required by virtue of subsection (8)(a) above to prepare and publish a remediation statement fails to do so within a reasonable time after the date on which a remediation notice specifying the things there mentioned could, apart from subsection (5) above, have been served, the enforcing authority may itself prepare and publish the statement and may recover its reasonable costs of doing so from that person.

(10) Where the enforcing authority has been precluded by virtue only of subsection (5) above from serving a remediation notice on an appropriate person but—

(a) none of the conditions in that subsection is for the time being satisfied in the particular case, and

(b) the authority is not precluded by any other provision of this Part from serving a remediation notice on that appropriate person,

the authority shall serve a remediation notice on that person; and any such notice may be so served without any further endeavours by the authority to consult persons pursuant to subsection (1) above, if and to the extent that that person has been consulted pursuant to that subsection concerning the things which will be specified in the notice.

] [1]

Notes

[1] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78H(1)-(10)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78J.— Restrictions on liability relating to the pollution of controlled waters.

(1) This section applies where any land is contaminated land by virtue of paragraph (b) of subsection (2) of section 78A above (whether or not the land is also contaminated land by virtue of paragraph (a) of that subsection).

(2) Where this section applies, no remediation notice given in consequence of the land in question being contaminated land shall require a person who is an appropriate person by virtue of section 78F(4) or (5) above to do anything by way of remediation to that or any other land, or any waters, which he could not have been required to do by such a notice had paragraph (b) of section 78A(2) above (and all other references to pollution of controlled waters) been omitted from this Part.

(3) If, in a case where this section applies, a person permits, has permitted, or might permit, water from an abandoned mine or part of a mine—

(a) to enter any controlled waters, or

(b) to reach a place from which it is or, as the case may be, was likely, in the opinion of the enforcing authority, to enter such waters,

no remediation notice shall require him in consequence to do anything by way of remediation (whether to the contaminated land in question or to any other land or waters) which he could not have been required to do by such a notice had paragraph (b) of section 78A(2) above (and all other references to pollution of controlled waters) been omitted from this Part.

(4) Subsection (3) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

(5) In determining for the purposes of subsection (4) above whether a mine or part of a mine became abandoned before, on or after 31st December 1999 in a case where the mine or part has become abandoned on two or more occasions, of which—

(a) at least one falls on or before that date, and

(b) at least one falls after that date,

the mine or part shall be regarded as becoming abandoned after that date (but without prejudice to the operation of subsection (3) above in relation to that mine or part at, or in relation to, any time before the first of those occasions which falls after that date).

(6) Where, immediately before a part of a mine becomes abandoned, that part is the only part of the mine not falling to be regarded as abandoned for the time being, the abandonment of that part shall not be regarded for the purposes of subsection (4) or (5) above as constituting the abandonment of the mine, but only of that part of it.

(7) Nothing in subsection (2) or (3) above prevents the enforcing authority from doing anything by way of remediation under section 78N below which it could have done apart from that subsection, but the authority shall not be entitled under section 78P below to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by subsection (2) or (3) above from requiring that person to do.

(8) In this section "mine" has the same meaning as in the Mines and Quarries Act 1954.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Scotland

[78J.— Restrictions on liability relating to the pollution of controlled waters.

(1) This section applies where any land is contaminated land by virtue of paragraph (b) of subsection (2) of section 78A above (whether or not the land is also contaminated land by virtue of paragraph (a) of that subsection).

(2) Where this section applies, no remediation notice given in consequence of the land in question being contaminated land shall require a person who is an appropriate person by virtue of section 78F(4) or (5) above to do anything by way of remediation to that or any other land, or the water environment, which he could not have been required to do by such a notice had paragraph (b) of section 78A(2) above (and all other references to pollution of **[** the water environment **]** [2]) been omitted from this Part.

(3) If, in a case where this section applies, a person permits, has permitted, or might permit, water from an abandoned mine or part of a mine—

(a) to enter the water environment, or

(b) to reach a place from which it is or, as the case may be, was likely, in the opinion of the enforcing authority, to enter the water environment,

no remediation notice shall require him in consequence to do anything by way of remediation (whether to the contaminated land in question or to any other land or the water environment) which he could not have been required to do by such a notice had paragraph (b) of section 78A(2) above (and all other references to pollution of **[** the water environment **]** [2]) been omitted from this Part.

(4) Subsection (3) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

(5) In determining for the purposes of subsection (4) above whether a mine or part of a mine became abandoned before, on or after 31st December 1999 in a case where the mine or part has become abandoned on two or more occasions, of which—

(a) at least one falls on or before that date, and

(b) at least one falls after that date,

the mine or part shall be regarded as becoming abandoned after that date (but without prejudice to the operation of subsection (3) above in relation to that mine or part at, or in relation to, any time before the first of those occasions which falls after that date).

(6) Where, immediately before a part of a mine becomes abandoned, that part is the only part of the mine not falling to be regarded as abandoned for the time being, the abandonment of that part shall not be regarded for the purposes of subsection (4) or (5) above as constituting the abandonment of the mine, but only of that part of it.

(7) Nothing in subsection (2) or (3) above prevents the enforcing authority from doing anything by way of remediation under section 78N below which it could have done apart from that subsection, but the authority shall not be entitled under section 78P below to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by subsection (2) or (3) above from requiring that person to do.

(8) In this section "mine" has the same meaning as in the Mines and Quarries Act 1954.
] [1]

Notes

[1] Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(7) (April 1, 2006)

[2] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78J(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force

England

[78K.— Liability in respect of contaminating substances which escape to other land.

(1) A person who has caused or knowingly permitted any substances to be in, on or under any land shall also be taken for the purposes of this Part to have caused or, as the case may be, knowingly permitted those substances to be in, on or under any other land to which they appear to have escaped.

(2) Subsections (3) and (4) below apply in any case where it appears that any substances are or have been in, on or under any land (in this section referred to as "land A") as a result of their escape, whether directly or indirectly, from other land in, on or under which a person caused or knowingly permitted them to be.

(3) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation to any land or waters (other than land or waters of which he is the owner or occupier) in consequence of land A appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm **[**, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused **]**[2] .

(4) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation in consequence of any further land in, on or under which those substances or any of them appear to be or to have been present as a result of their escape from land A ("land B") appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm **[**, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused **]**[2] , unless he is also the owner or occupier of land B.

(5) In any case where—

(a) a person ("person A") has caused or knowingly permitted any substances to be in, on, or under any land,

(b) another person ("person B") who has not caused or knowingly permitted those substances to be in, on or under that land becomes the owner or occupier of that land, and

(c) the substances, or any of the substances, mentioned in paragraph (a) above appear to have escaped to other land,

no remediation notice shall require person B to do anything by way of remediation to that other land in consequence of the apparent acts or omissions of person A, except to the extent that person B caused or knowingly permitted the escape.

(6) Nothing in subsection (3), (4) or (5) above prevents the enforcing authority from doing anything by way of remediation under section 78N below which it could have done apart from that subsection, but the authority shall not be entitled under section 78P below to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by subsection (3), (4) or (5) above from requiring that person to do.

(7) In this section, "appear" means appear to the enforcing authority, and cognate expressions shall be construed accordingly.

][1]

Notes

1 Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

2 Words substituted by Water Act 2003 c. 37 Pt 3 s.86(5) (April 6, 2012 as SI 2012/264)

Wales

[78K.— Liability in respect of contaminating substances which escape to other land.

(1) A person who has caused or knowingly permitted any substances to be in, on or under any land shall also be taken for the purposes of this Part to have caused or, as the case may be, knowingly permitted those substances to be in, on or under any other land to which they appear to have escaped.

(2) Subsections (3) and (4) below apply in any case where it appears that any substances are or have been in, on or under any land (in this section referred to as "land A") as a result of their escape, whether directly or indirectly, from other land in, on or under which a person caused or knowingly permitted them to be.

(3) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation to any land or waters (other than land or waters of which he is the owner or occupier) in consequence of land A appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused.

(4) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation in consequence of any further land in, on or under which those substances or any of them appear to be or to have been present as a result of their escape from land A ("land B") appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused, unless he is also the owner or occupier of land B.

(5) In any case where—

(a) a person ("person A") has caused or knowingly permitted any substances to be in, on, or under any land,

(b) another person ("person B") who has not caused or knowingly permitted those substances to be in, on or under that land becomes the owner or occupier of that land, and

(c) the substances, or any of the substances, mentioned in paragraph (a) above appear to have escaped to other land,

no remediation notice shall require person B to do anything by way of remediation to that other land in consequence of the apparent acts or omissions of person A, except to the extent that person B caused or knowingly permitted the escape.

(6) Nothing in subsection (3), (4) or (5) above prevents the enforcing authority from doing anything by way of remediation under section 78N below which it could have done apart from that subsection, but the authority shall not be entitled under section 78P below to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by subsection (3), (4) or (5) above from requiring that person to do.

(7) In this section, "appear" means appear to the enforcing authority, and cognate expressions shall be construed accordingly.
] [1]

Notes

[1] Words substituted by Water Act 2003 c. 37 Pt 3 s.86(5) (April 6, 2012 as SI 2012/284)

Scotland

[78K.— Liability in respect of contaminating substances which escape to other land.

(1) A person who has caused or knowingly permitted any substances to be in, on or under any land shall also be taken for the purposes of this Part to have caused or, as the case may be, knowingly permitted those substances to be in, on or under any other land to which they appear to have escaped.

(2) Subsections (3) and (4) below apply in any case where it appears that any substances are or have been in, on or under any land (in this section referred to as "land A") as a result of their escape, whether directly or indirectly, from other land in, on or under which a person caused or knowingly permitted them to be.

(3) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation to any land or the water environment (other than land or the water environment of which he is the owner or occupier) in consequence of land A appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm, or significant pollution of the water environment, is being caused, or there is a significant possibility of such harm or pollution being caused.

(4) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation in consequence of any further land in, on or under which those substances or any of them appear to be or to have been present as a result of their escape from land A ("land B") appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that significant harm, or significant pollution of the water environment, is being

caused, or there is a significant possibility of such harm or pollution being caused, unless he is also the owner or occupier of land B.

(5) In any case where—

(a) a person ("person A") has caused or knowingly permitted any substances to be in, on, or under any land,

(b) another person ("person B") who has not caused or knowingly permitted those substances to be in, on or under that land becomes the owner or occupier of that land, and

(c) the substances, or any of the substances, mentioned in paragraph (a) above appear to have escaped to other land,

no remediation notice shall require person B to do anything by way of remediation to that other land in consequence of the apparent acts or omissions of person A, except to the extent that person B caused or knowingly permitted the escape.

(6) Nothing in subsection (3), (4) or (5) above prevents the enforcing authority from doing anything by way of remediation under section 78N below which it could have done apart from that subsection, but the authority shall not be entitled under section 78P below to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by subsection (3), (4) or (5) above from requiring that person to do.

(7) In this section, "appear" means appear to the enforcing authority, and cognate expressions shall be construed accordingly.

] [1]

Notes

[1] Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(8) (April 1, 2006)

Extent

Pt IIA s. 78K(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Law In Force

Scotland

[78L.— Appeals against remediation notices.

(1) A person on whom a remediation notice is served may, within the period of twenty-one days beginning with the day on which the notice is served, appeal against the notice—

(a) if it was served by a local authority, to a magistrates' court or, in Scotland, to the sheriff by way of summary application; or

(b) if it was served by the appropriate Agency, to the Secretary of State;

and in the following provisions of this section “the appellate authority” means the magistrates' court, the sheriff or the Secretary of State, as the case may be.

(2) On any appeal under subsection (1) above the appellate authority—

(a) shall quash the notice, if it is satisfied that there is a material defect in the notice; but

(b) subject to that, may confirm the remediation notice, with or without modification, or quash it.

(3) Where an appellate authority confirms a remediation notice, with or without modification, it may extend the period specified in the notice for doing what the notice requires to be done.

(4) Regulations may make provision with respect to—

(a) the grounds on which appeals under subsection (1) above may be made;

(b) the cases in which, grounds on which, court or tribunal to which, or person at whose instance, an appeal against a decision of a magistrates' court or sheriff court in pursuance of an appeal under subsection (1) above shall lie; or

(c) the procedure on an appeal under subsection (1) above or on an appeal by virtue of paragraph (b) above.

(5) Regulations under subsection (4) above may (among other things)—

(a) include provisions comparable to those in section 290 of the Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a remediation notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on an appeal may in some respects be less favourable to the appellant than the remediation notice against which he is appealing;

(d) prescribe the cases in which the appellant may claim that a remediation notice should have been served on some other person and prescribe the procedure to be followed in those cases;

(e) make provision as respects—

(i) the particulars to be included in the notice of appeal;

(ii) the persons on whom notice of appeal is to be served and the particulars, if any, which are to accompany the notice; and

(iii) the abandonment of an appeal;

(f) make different provision for different cases or classes of case.

(6) This section, so far as relating to appeals to the Secretary of State, is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

England

[78L.— Appeals against remediation notices.

(1) A person on whom a remediation notice is served may, within the period of twenty-one days beginning with the day on which the notice is served, appeal against the notice—

(a) if it was served by a local authority in England **[** or by the Environment Agency **]** [2] , to the Secretary of State;

(b) if it was served by a local authority in Wales **[** or by the Natural Resources Body for Wales **]** [3] , to the National Assembly for Wales;

and in the following provisions of this section "the appellate authority" means the Secretary of State or the National Assembly for Wales, as the case may be.

(2) On any appeal under subsection (1) above the appellate authority—

(a) shall quash the notice, if it is satisfied that there is a material defect in the notice; but

(b) subject to that, may confirm the remediation notice, with or without modification, or quash it.

(3) Where an appellate authority confirms a remediation notice, with or without modification, it may extend the period specified in the notice for doing what the notice requires to be done.

(4) Regulations may make provision with respect to—

(a) the grounds on which appeals under subsection (1) above may be made;

(b) [...]

(c) the procedure on an appeal under subsection (1) above.

(5) Regulations under subsection (4) above may (among other things)—

(a) include provisions comparable to those in section 290 of the Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a remediation notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on an appeal may in some respects be less favourable to the appellant than the remediation notice against which he is appealing;

(d) prescribe the cases in which the appellant may claim that a remediation notice should have been served on some other person and prescribe the procedure to be followed in those cases;

(e) make provision as respects—

(i) the particulars to be included in the notice of appeal;

(ii) the persons on whom notice of appeal is to be served and the particulars, if any, which are to accompany the notice; and

(iii) the abandonment of an appeal;

(f) make different provision for different cases or classes of case.

(6) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.104 (August 4, 2006 as SI 2006/1361)

[2] Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.217(2) (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[3] Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.217(3) (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Wales

[78L.— Appeals against remediation notices.

(1) A person on whom a remediation notice is served may, within the period of twenty-one days beginning with the day on which the notice is served, appeal against the notice—

(a) if it was served by a local authority in England [or by the Environment Agency] [2] , to the Secretary of State;

(b) if it was served by a local authority in Wales [or by the Natural Resources Body for Wales] [3] to the National Assembly for Wales;

and in the following provisions of this section "the appellate authority" means the Secretary of State or the National Assembly for Wales, as the case may be.

(2) On any appeal under subsection (1) above the appellate authority—

(a) shall quash the notice, if it is satisfied that there is a material defect in the notice; but

(b) subject to that, may confirm the remediation notice, with or without modification, or quash it.

(3) Where an appellate authority confirms a remediation notice, with or without modification, it may extend the period specified in the notice for doing what the notice requires to be done.

(4) Regulations may make provision with respect to—

(a) the grounds on which appeals under subsection (1) above may be made;

(b) [...]

(c) the procedure on an appeal under subsection (1) above.

(5) Regulations under subsection (4) above may (among other things)—

(a) include provisions comparable to those in section 290 of the Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which a remediation notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on an appeal may in some respects be less favourable to the appellant than the remediation notice against which he is appealing;

(d) prescribe the cases in which the appellant may claim that a remediation notice should have been served on some other person and prescribe the procedure to be followed in those cases;

(e) make provision as respects—

(i) the particulars to be included in the notice of appeal;

(ii) the persons on whom notice of appeal is to be served and the particulars, if any, which are to accompany the notice; and

(iii) the abandonment of an appeal;

(f) make different provision for different cases or classes of case.

(6) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).
] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.104 (March 16, 2006 as SI 2006/768 and SI 2006/2989)

[2] Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.217(2) (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

[3] Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.217(3) (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Extent

Pt IIA s. 78L(1)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

[78M.— Offences of not complying with a remediation notice.

(1) If a person on whom an enforcing authority serves a remediation notice fails, without reasonable excuse, to comply with any of the requirements of the notice, he shall be guilty of an offence.

(2) Where the remediation notice in question is one which was required by section 78E(3) above to state, in relation to the requirement which has not been complied with, the proportion of the cost involved which the person charged with the offence is liable to bear, it shall be a defence for that person to prove that the only reason why he has not complied with the requirement is that one or more of the other persons who are liable to bear a proportion of that cost refused, or was not able, to comply with the requirement.

(3) Except in a case falling within subsection (4) below, a person who commits an offence under subsection (1) above shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to one-tenth of level 5 on the standard scale for each day on which the failure continues after conviction of the offence and before the enforcing authority has begun to exercise its powers by virtue of section 78N(3)(c) below.

(4) A person who commits an offence under subsection (1) above in a case where the contaminated land to which the remediation notice relates is industrial, trade or business premises shall be liable

on summary conviction to a fine not exceeding £20,000 or such greater sum as the Secretary of State may from time to time by order substitute and to a further fine of an amount equal to one-tenth of that sum for each day on which the failure continues after conviction of the offence and before the enforcing authority has begun to exercise its powers by virtue of section 78N(3)(c) below.

(5) If the enforcing authority is of the opinion that proceedings for an offence under this section would afford an ineffectual remedy against a person who has failed to comply with any of the requirements of a remediation notice which that authority has served on him, that authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction, for the purpose of securing compliance with the remediation notice.

(6) In this section, "industrial, trade or business premises" means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purpose of manufacturing.

(7) **[…]**[2]
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

[2] Repealed by Environment Act 2021 c. 30 Pt 3 s.63(4) (November 9, 2021)

England and Wales

[78M.— Offences of not complying with a remediation notice.

(1) If a person on whom an enforcing authority serves a remediation notice fails, without reasonable excuse, to comply with any of the requirements of the notice, he shall be guilty of an offence.

(2) Where the remediation notice in question is one which was required by section 78E(3) above to state, in relation to the requirement which has not been complied with, the proportion of the cost involved which the person charged with the offence is liable to bear, it shall be a defence for that person to prove that the only reason why he has not complied with the requirement is that one or more of the other persons who are liable to bear a proportion of that cost refused, or was not able, to comply with the requirement.

(3) Except in a case falling within subsection (4) below, a person who commits an offence under subsection (1) above shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to one-tenth of the greater of £5,000 or level 4 on the standard scale for each day on which the failure continues after conviction of the offence and before the enforcing authority has begun to exercise its powers by virtue of section 78N(3)(c) below.

(4) A person who commits an offence under subsection (1) above in a case where the contaminated land to which the remediation notice relates is industrial, trade or business premises shall be liable

on summary conviction to **[** a fine **]** [2] and to a further fine of an amount equal to one-tenth of that sum for each day on which the failure continues after conviction of the offence and before the enforcing authority has begun to exercise its powers by virtue of section 78N(3)(c) below.

(5) If the enforcing authority is of the opinion that proceedings for an offence under this section would afford an ineffectual remedy against a person who has failed to comply with any of the requirements of a remediation notice which that authority has served on him, that authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction, for the purpose of securing compliance with the remediation notice.

(6) In this section, "industrial, trade or business premises" means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purpose of manufacturing.

(7) **[…]**[3]
] [1]

Notes

1 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(3) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

2 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(4) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

3 Repealed by Environment Act 2021 c. 30 Pt 3 s.63(4) (November 9, 2021)

Extent

Pt IIA s. 78M(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78N.— Powers of the enforcing authority to carry out remediation.

(1) Where this section applies, the enforcing authority shall itself have power, in a case falling within paragraph (a) or (b) of section 78E(1) above, to do what is appropriate by way of remediation to the relevant land or waters.

(2) Subsection (1) above shall not confer power on the enforcing authority to do anything by way of remediation if the authority would, in the particular case, be precluded by section 78YB below from serving a remediation notice requiring that thing to be done.

(3) This section applies in each of the following cases, that is to say—

(a) where the enforcing authority considers it necessary to do anything itself by way of remediation for the purpose of preventing the occurrence of any serious harm, or serious pollution of controlled waters, of which there is imminent danger;

(b) where an appropriate person has entered into a written agreement with the enforcing authority for that authority to do, at the cost of that person, that which he would otherwise be required to do under this Part by way of remediation;

(c) where a person on whom the enforcing authority serves a remediation notice fails to comply with any of the requirements of the notice;

(d) where the enforcing authority is precluded by section 78J or 78K above from including something by way of remediation in a remediation notice;

(e) where the enforcing authority considers that, were it to do some particular thing by way of remediation, it would decide, by virtue of subsection (2) of section 78P below or any guidance issued under that subsection,—

(i) not to seek to recover under subsection (1) of that section any of the reasonable cost incurred by it in doing that thing; or

(ii) to seek so to recover only a portion of that cost;

(f) where no person has, after reasonable inquiry, been found who is an appropriate person in relation to any particular thing.

(4) Subject to section 78E(4) and (5) above, for the purposes of this section, the things which it is appropriate for the enforcing authority to do by way of remediation are—

(a) in a case falling within paragraph (a) of subsection (3) above, anything by way of remediation which the enforcing authority considers necessary for the purpose mentioned in that paragraph;

(b) in a case falling within paragraph (b) of that subsection, anything specified in, or determined under, the agreement mentioned in that paragraph;

(c) in a case falling within paragraph (c) of that subsection, anything which the person mentioned in that paragraph was required to do by virtue of the remediation notice;

(d) in a case falling within paragraph (d) of that subsection, anything by way of remediation which the enforcing authority is precluded by section 78J or 78K above from including in a remediation notice;

(e) in a case falling within paragraph (e) or (f) of that subsection, the particular thing mentioned in the paragraph in question.

(5) In this section "the relevant land or waters" means —

(a) the contaminated land in question;

(b) any controlled waters affected by that land; or

(c) any land adjoining or adjacent to that land or those waters.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Scotland

[78N.— Powers of the enforcing authority to carry out remediation.

(1) Where this section applies, the enforcing authority shall itself have power, in a case falling within paragraph (a) or (b) of section 78E(1) above, to do what is appropriate by way of remediation to the relevant land or the water environment.

(2) Subsection (1) above shall not confer power on the enforcing authority to do anything by way of remediation if the authority would, in the particular case, be precluded by section 78YB below from serving a remediation notice requiring that thing to be done.

(3) This section applies in each of the following cases, that is to say—

(a) where the enforcing authority considers it necessary to do anything itself by way of remediation for the purpose of preventing the occurrence of any serious harm, or serious pollution of **[** the water environment **]** [2] , of which there is imminent danger;

(b) where an appropriate person has entered into a written agreement with the enforcing authority for that authority to do, at the cost of that person, that which he would otherwise be required to do under this Part by way of remediation;

(c) where a person on whom the enforcing authority serves a remediation notice fails to comply with any of the requirements of the notice;

(d) where the enforcing authority is precluded by section 78J or 78K above from including something by way of remediation in a remediation notice;

(e) where the enforcing authority considers that, were it to do some particular thing by way of remediation, it would decide, by virtue of subsection (2) of section 78P below or any guidance issued under that subsection,—

(i) not to seek to recover under subsection (1) of that section any of the reasonable cost incurred by it in doing that thing; or

(ii) to seek so to recover only a portion of that cost;

(f) where no person has, after reasonable inquiry, been found who is an appropriate person in relation to any particular thing.

(4) Subject to section 78E(4) and (5) above, for the purposes of this section, the things which it is appropriate for the enforcing authority to do by way of remediation are—

(a) in a case falling within paragraph (a) of subsection (3) above, anything by way of remediation which the enforcing authority considers necessary for the purpose mentioned in that paragraph;

(b) in a case falling within paragraph (b) of that subsection, anything specified in, or determined under, the agreement mentioned in that paragraph;

(c) in a case falling within paragraph (c) of that subsection, anything which the person mentioned in that paragraph was required to do by virtue of the remediation notice;

(d) in a case falling within paragraph (d) of that subsection, anything by way of remediation which the enforcing authority is precluded by section 78J or 78K above from including in a remediation notice;

(e) in a case falling within paragraph (e) or (f) of that subsection, the particular thing mentioned in the paragraph in question.

(5) In this section "relevant land or water environment" means–

(a) the contaminated land in question;

(b) the water environment affected by that land; or

(c) any land adjoining or adjacent to that land or that water environment.

] [1]

Notes

[1] Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(9) (April 1, 2006)

[2] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78N(1)-(5)(c): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78P.— Recovery of, and security for, the cost of remediation by the enforcing authority.

(1) Where, by virtue of section 78N(3)(a), (c), (e) or (f) above, the enforcing authority does any particular thing by way of remediation, it shall be entitled, subject to sections 78J(7) and 78K(6) above, to recover the reasonable cost incurred in doing it from the appropriate person or, if there are two or more appropriate persons in relation to the thing in question, from those persons in proportions determined pursuant to section 78F(7) above.

(2) In deciding whether to recover the cost, and, if so, how much of the cost, which it is entitled to recover under subsection (1) above, the enforcing authority shall have regard—

(a) to any hardship which the recovery may cause to the person from whom the cost is recoverable; and

(b) to any guidance issued by the Secretary of State for the purposes of this subsection.

(3) Subsection (4) below shall apply in any case where—

(a) any cost is recoverable under subsection (1) above from a person—

(i) who is the owner of any premises which consist of or include the contaminated land in question; and

(ii) who caused or knowingly permitted the substances, or any of the substances, by reason of which the land is contaminated land to be in, on or under the land; and

(b) the enforcing authority serves a notice under this subsection (in this Part referred to as a "charging notice") on that person.

(4) Where this subsection applies—

(a) the cost shall carry interest, at such reasonable rate as the enforcing authority may determine, from the date of service of the notice until the whole amount is paid; and

(b) subject to the following provisions of this section, the cost and accrued interest shall be a charge on the premises mentioned in subsection (3)(a)(i) above.

(5) A charging notice shall—

(a) specify the amount of the cost which the enforcing authority claims is recoverable;

(b) state the effect of subsection (4) above and the rate of interest determined by the authority under that subsection; and

(c) state the effect of subsections (7) and (8) below.

(6) On the date on which an enforcing authority serves a charging notice on a person, the authority shall also serve a copy of the notice on every other person who, to the knowledge of the authority, has an interest in the premises capable of being affected by the charge.

(7) Subject to any order under subsection (9)(b) or (c) below, the amount of any cost specified in a charging notice and the accrued interest shall be a charge on the premises—

(a) as from the end of the period of twenty-one days beginning with the service of the charging notice, or

(b) where an appeal is brought under subsection (8) below, as from the final determination or (as the case may be) the withdrawal, of the appeal,

until the cost and interest are recovered.

(8) A person served with a charging notice or a copy of a charging notice may appeal against the notice to **[** the county court **]**[2] within the period of twenty-one days beginning with the date of service.

(9) On an appeal under subsection (8) above, the court may—

(a) confirm the notice without modification;

(b) order that the notice is to have effect with the substitution of a different amount for the amount originally specified in it; or

(c) order that the notice is to be of no effect.

(10) Regulations may make provision with respect to—

(a) the grounds on which appeals under this section may be made; or

(b) the procedure on any such appeal.

(11) An enforcing authority shall, for the purpose of enforcing a charge under this section, have all the same powers and remedies under the Law of Property Act 1925, and otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(12) Where any cost is a charge on premises under this section, the enforcing authority may by order declare the cost to be payable with interest by instalments within the specified period until the whole amount is paid.

(13) In subsection (12) above—

"interest" means interest at the rate determined by the enforcing authority under subsection (4) above; and

"the specified period" means such period of thirty years or less from the date of service of the charging notice as is specified in the order.

(14) Subsections (3) to (13) above do not extend to Scotland.
][1]

Notes

1 Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

2 Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.52(1)(b) (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)

Extent

Pt IIA s. 78P(1)-(14): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78Q.— Special sites.

(1) If, in a case where a local authority has served a remediation notice, the contaminated land in question becomes a special site, the appropriate Agency may adopt the remediation notice and, if it does so,—

(a) it shall give notice of its decision to adopt the remediation notice to the appropriate person and to the local authority;

(b) the remediation notice shall have effect, as from the time at which the appropriate Agency decides to adopt it, as a remediation notice given by that Agency; and

(c) the validity of the remediation notice shall not be affected by—

(i) the contaminated land having become a special site;

(ii) the adoption of the remediation notice by the appropriate Agency; or

(iii) anything in paragraph (b) above.

(2) Where a local authority has, by virtue of section 78N above, begun to do anything, or any series of things, by way of remediation—

(a) the authority may continue doing that thing, or that series of things, by virtue of that section, notwithstanding that the contaminated land in question becomes a special site; and

(b) section 78P above shall apply in relation to the reasonable cost incurred by the authority in doing that thing or those things as if that authority were the enforcing authority.

(3) If and so long as any land is a special site, the appropriate Agency may from time to time inspect that land for the purpose of keeping its condition under review.

(4) If it appears to the appropriate Agency that a special site is no longer land which is required to be designated as such a site, the appropriate Agency may give notice—

(a) to the Secretary of State, and

(b) to the local authority in whose area the site is situated,

terminating the designation of the land in question as a special site as from such date as may be specified in the notice.

(5) A notice under subsection (4) above shall not prevent the land, or any of the land, to which the notice relates being designated as a special site on a subsequent occasion.

(6) In exercising its functions under subsection (3) or (4) above, the appropriate Agency shall act in accordance with any guidance given for the purpose by the Secretary of State.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78Q(1)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

[NOTE: not yet in force otherwise.]

Scotland

[78QA Land no longer considered to be contaminated

(1) Subsection (2) applies where—

(a) a local authority has given notice under section 78B above that land in its area has been identified as contaminated land;

(b) the land is not designated as a special site by virtue of section 78C(7) or 78D(6) above; and

(c) the local authority is satisfied that the land is no longer contaminated land.

(2) The local authority may give notice (a "non-contamination notice") that the land is no longer contaminated land to—

(a) the appropriate Agency;

(b) the owner of the land;

(c) any person who appears to the local authority to be in occupation of the land;

(d) each person who appears to the authority to be an appropriate person.

(3) Where a non-contamination notice is given in respect of land—

(a) the notice mentioned in subsection (1) above ceases to have effect (and accordingly the land is no longer identified as contaminated land for the purposes of this Part);

(b) no remediation notice may be served in respect of the land;

(c) any remediation notice in force in respect of the land at the time the noncontamination notice is given ceases to have effect (except to the extent that the non-contamination notice provides otherwise); and

(d) no proceedings may be begun against a person for an offence under section 78M(1) above in respect of such a remediation notice except in relation to a provision of the notice which continues to have effect by virtue of paragraph (c) above.

(4) A non-contamination notice shall not prevent the land, or any of the land, to which the notice relates being identified as contaminated land on a subsequent occasion.

(5) Where land, or any of the land, to which a non-contamination notice relates is subsequently identified as contaminated land, or is subsequently designated as a special site by virtue of section 78C(7) or 78D(6), subsection (3)(b) above does not prevent a remediation notice being served in respect of the land.

(6) Where a local authority gives a non-contamination notice, it must keep (in such form as it thinks fit) a record of—

(a) details of the land to which the notice relates;
(b) its reasons for giving the notice; and
(c) the date of—
(i) the notice mentioned in subsection (1) above;
(ii) service of the non-contamination notice.

(7) Subsection (8) of section 78R below applies to records kept under subsection (6) above as it applies to registers maintained by enforcing authorities under that section; and for that purpose, the reference to entries is to be read as if it were a reference to information in such records.

(8) In performing its function under subsection (2) above, a local authority must have regard to any guidance issued by the Scottish Ministers in accordance with section 78YA below.

(9) In this section, references to land in respect of which a non-contamination notice is given include references to part of that land.
] [1]

Notes

[1] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.45(3) (June 30, 2014)

Extent

Pt IIA s. 78QA(1)-(9): England, Wales, Scotland

Law In Force

[78R.— Registers.

(1) Every enforcing authority shall maintain a register containing prescribed particulars of or relating to—

(a) remediation notices served by that authority;
(b) appeals against any such remediation notices;
(c) remediation statements or remediation declarations prepared and published under section 78H above;
(d) in relation to an enforcing authority in England and Wales, appeals against charging notices served by that authority;
(e) notices under subsection (1)(b) or (5)(a) of section 78C above which have effect by virtue of subsection (7) of that section as the designation of any land as a special site;
(f) notices under subsection (4)(b) of section 78D above which have effect by virtue of subsection (6) of that section as the designation of any land as a special site;
(g) notices given by or to the enforcing authority under section 78Q(4) above terminating the designation of any land as a special site;

(h) notifications given to that authority by persons—

(i) on whom a remediation notice has been served, or

(ii) who are or were required by virtue of section 78H(8)(a) above to prepare and publish a remediation statement,

of what they claim has been done by them by way of remediation;

(j) notifications given to that authority by owners or occupiers of land—

(i) in respect of which a remediation notice has been served, or

(ii) in respect of which a remediation statement has been prepared and published,

of what they claim has been done on the land in question by way of remediation;

(k) convictions for such offences under section 78M above as may be prescribed;

(l) such other matters relating to contaminated land as may be prescribed;

but that duty is subject to sections 78S and 78T below.

(2) The form of, and the descriptions of information to be contained in, notifications for the purposes of subsection (1)(h) or (j) above may be prescribed by the Secretary of State.

(3) No entry made in a register by virtue of subsection (1)(h) or (j) above constitutes a representation by the body maintaining the register or, in a case where the entry is made by virtue of subsection (6) below, the authority which sent the copy of the particulars in question pursuant to subsection (4) or (5) below—

(a) that what is stated in the entry to have been done has in fact been done; or

(b) as to the manner in which it has been done.

(4) Where any particulars are entered on a register maintained under this section by the appropriate Agency, the appropriate Agency shall send a copy of those particulars to the local authority in whose area is situated the land to which the particulars relate.

(5) In any case where—

(a) any land is treated by virtue of section 78X(2) below as situated in the area of a local authority other than the local authority in whose area it is in fact situated, and

(b) any particulars relating to that land are entered on the register maintained under this section by the local authority in whose area the land is so treated as situated,

that authority shall send a copy of those particulars to the local authority in whose area the land is in fact situated.

(6) Where a local authority receives a copy of any particulars sent to it pursuant to subsection (4) or (5) above, it shall enter those particulars on the register maintained by it under this section.

(7) Where information of any description is excluded by virtue of section 78T below from any register maintained under this section, a statement shall be entered in the register indicating the existence of information of that description.

(8) It shall be the duty of each enforcing authority—

(a) to secure that the registers maintained by it under this section are available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges;

and, for the purposes of this subsection, places may be prescribed by the Secretary of State at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question.

(9) Registers under this section may be kept in any form.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78R(1)-(9): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78S.— Exclusion from registers of information affecting national security.

(1) No information shall be included in a register maintained under section 78R above if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which subsection (1) above applies, give to enforcing authorities directions—

(a) specifying information, or descriptions of information, to be excluded from their registers; or

(b) specifying descriptions of information to be referred to the Secretary of State for his determination;

and no information referred to the Secretary of State in pursuance of paragraph (b) above shall be included in any such register until the Secretary of State determines that it should be so included.

(3) The enforcing authority shall notify the Secretary of State of any information which it excludes from the register in pursuance of directions under subsection (2) above.

(4) A person may, as respects any information which appears to him to be information to which subsection (1) above may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

(a) he shall notify the enforcing authority that he has done so; and

(b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78S(1)-(4)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78T.— Exclusion from registers of certain confidential information.

(1) No information relating to the affairs of any individual or business shall be included in a register maintained under section 78R above, without the consent of that individual or the person for the time being carrying on that business, if and so long as the information—

(a) is, in relation to him, commercially confidential; and

(b) is not required to be included in the register in pursuance of directions under subsection (7) below;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by the enforcing authority or, on appeal, by the Secretary of State.

(2) Where it appears to an enforcing authority that any information which has been obtained by the authority under or by virtue of any provision of this Part might be commercially confidential, the authority shall—

(a) give to the person to whom or whose business it relates notice that that information is required to be included in the register unless excluded under this section; and

(b) give him a reasonable opportunity—

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and

(ii) of making representations to the authority for the purpose of justifying any such objection;

and, if any representations are made, the enforcing authority shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(3) Where, under subsection (2) above, an authority determines that information is not commercially confidential—

(a) the information shall not be entered in the register until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned;

(b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered in the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn.

(4) An appeal under subsection (3) above shall, if either party to the appeal so requests or the Secretary of State so decides, take or continue in the form of a hearing (which must be held in private).

(5) Subsection (10) of section 15 above shall apply in relation to an appeal under subsection (3) above as it applies in relation to an appeal under that section.

(6) Subsection (3) above is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc).

(7) The Secretary of State may give to the enforcing authorities directions as to specified information, or descriptions of information, which the public interest requires to be included in registers maintained under section 78R above notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to the authority for the information to remain excluded from the register on the ground that it is still commercially confidential and the authority shall determine whether or not that is the case.

(9) Subsections (3) to (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) above.

(10) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

(11) For the purposes of subsection (10) above, there shall be disregarded any prejudice to the commercial interests of any individual or person so far as relating only to the value of the contaminated land in question or otherwise to the ownership or occupation of that land.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78T(1)-(11): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

[NOTE: not yet in force otherwise.]

Scotland

[78TA Registers: removal of information about land designated as special site

(1) Subsection (2) applies where a local authority has entered in a register maintained under section 78R above particulars of or relating to notices mentioned in paragraph (e) or (f) of subsection (1) of that section.

(2) The local authority may remove the particulars from the register.

(3) Particulars may be removed under subsection (2) above only if—

(a) the Scottish Environment Protection Agency has given the local authority a notice under section 78Q(4) above that the land to which the notices relate is no longer land which is required to be designated as a special site; and

(b) the date specified in the notice given under that section has passed.

(4) Where a local authority removes particulars from a register under subsection (2) above, it must keep (in such form as it thinks fit) a record of—

(a) the particulars that have been removed;

(b) its reasons for removing them; and

(c) the date on which the particulars—

(i) were originally entered in the register; and

(ii) were removed.

(5) Subsection (8) of section 78R above applies to records kept under subsection (4) above as it applies to registers maintained by enforcing authorities under that section; and for that purpose, the reference to entries is to be read as if it were a reference to information in such records.

(6) In performing its functions under subsection (4) above, a local authority must have regard to any guidance issued by the Scottish Ministers in accordance with section 78YA below.

(7) Where a local authority removes particulars from a register under subsection (2) above, it must give notice of such removal to—

(a) the Scottish Environment Protection Agency;

(b) any person who is the owner of land designated as a special site by a notice to which the particulars relate;

(c) any person who appears to the local authority to be in occupation of the whole or any part of that land;

(d) each person—

(i) who appears to the Scottish Environment Protection Agency to be an appropriate person in relation to that land; and

(ii) in respect of whom details have been given by the Scottish Environment Protection Agency to the local authority sufficient to enable notice of such removal to be given; and

(e) each person who appears to the local authority to be an appropriate person in relation to that land.

] [1]

Notes

[1] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.45(4) (June 30, 2014)

Extent

Pt IIA s. 78TA(1)-(7)(e): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

[NOTE: not yet in force otherwise.]

Scotland

[78TB Effect of removal of information from register

(1) Where a local authority removes particulars from a register under section 78TA(2) above—

(a) any remediation notice relating to the land ceases to have effect; and

(b) no proceedings may be begun against a person for an offence under section 78M(1) above in respect of any remediation notice relating to the land.

(2) In subsection (1), "the land" means land designated as a special site by a notice to which the particulars mentioned in that subsection relate.

] [1]

Notes

[1] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.45(4) (June 30, 2014)

Extent

Pt IIA s. 78TB(1)-(2): England, Wales, Scotland

Law In Force

[78U.— Reports by the appropriate Agency on the state of contaminated land.

(1) The appropriate Agency shall—

(a) from time to time, or

(b) if the Secretary of State at any time so requests,

prepare and publish a report on the state of contaminated land **[** in England, Wales or Scotland **]** [2] , as the case may be.

(2) A local authority shall, at the written request of the appropriate Agency, furnish the appropriate Agency with such information to which this subsection applies as the appropriate Agency may require for the purpose of enabling it to perform its functions under subsection (1) above.

(3) The information to which subsection (2) above applies is such information as the local authority may have, or may reasonably be expected to obtain, with respect to the condition of contaminated land in its area, being information which the authority has acquired or may acquire in the exercise of its functions under this Part.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

[2] Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.218 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Extent

Pt IIA s. 78U(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78V.— Site-specific guidance by the appropriate Agency concerning contaminated land.

(1) The appropriate Agency may issue guidance to any local authority with respect to the exercise or performance of the authority's powers or duties under this Part in relation to any particular contaminated land; and in exercising or performing those powers or duties in relation to that land the authority shall have regard to any such guidance so issued.

(2) If and to the extent that any guidance issued under subsection (1) above to a local authority is inconsistent with any guidance issued under this Part by the Secretary of State, the local authority shall disregard the guidance under that subsection.

(3) A local authority shall, at the written request of the appropriate Agency, furnish the appropriate Agency with such information to which this subsection applies as the appropriate Agency may require for the purpose of enabling it to issue guidance for the purposes of subsection (1) above.

(4) The information to which subsection (3) above applies is such information as the local authority may have, or may reasonably be expected to obtain, with respect to any contaminated land in its area, being information which the authority has acquired, or may acquire, in the exercise of its functions under this Part.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78V(1)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78W.— The appropriate Agency to have regard to guidance given by the Secretary of State.

(1) The Secretary of State may issue guidance to the appropriate Agency with respect to the exercise or performance of that Agency's powers or duties under this Part; and in exercising or performing those powers or duties the appropriate Agency shall have regard to any such guidance so issued.

(2) The duty imposed on the appropriate Agency by subsection (1) above is without prejudice to any duty imposed by any other provision of this Part on that Agency to act in accordance with guidance issued by the Secretary of State.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78W(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force

England

[78X.— Supplementary provisions.

(1) Where it appears to a local authority that two or more different sites, when considered together, are in such a condition, by reason of substances in, on or under the land, that—

(a) significant harm is being caused or there is a significant possibility of such harm being caused, or

[(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused, **]** [2]

this Part shall apply in relation to each of those sites, whether or not the condition of the land at any of them, when considered alone, appears to the authority to be such that significant harm **[** , or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused **]** [2] .

(2) Where it appears to a local authority that any land outside, but adjoining or adjacent to, its area is in such a condition, by reason of substances in, on or under the land, that significant harm is being caused, or there is a significant possibility of such harm being caused, or that pollution of controlled waters is being, or is likely to be, caused within its area—

(a) the authority may, in exercising its functions under this Part, treat that land as if it were land situated within its area; and

(b) except in this subsection, any reference—

(i) to land within the area of a local authority, or

(ii) to the local authority in whose area any land is situated,

shall be construed accordingly;

but this subsection is without prejudice to the functions of the local authority in whose area the land is in fact situated.

(3) A person acting in a relevant capacity—

(a) shall not thereby be personally liable, under this Part, to bear the whole or any part of the cost of doing any thing by way of remediation, unless that thing is to any extent referable to substances whose presence in, on or under the contaminated land in question is a result of any act done or omission made by him which it was unreasonable for a person acting in that capacity to do or make; and

(b) shall not thereby be guilty of an offence under or by virtue of section 78M above unless the requirement which has not been complied with is a requirement to do some particular thing for which he is personally liable to bear the whole or any part of the cost.

(4) In subsection (3) above, "person acting in a relevant capacity" means —

(a) a person acting as an insolvency practitioner, within the meaning of section 388 of the Insolvency Act 1986 (including that section as it applies in relation to an insolvent partnership by virtue of any order made under section 421 of that Act);

(b) the official receiver acting in a capacity in which he would be regarded as acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 if subsection (5) of that section were disregarded;

(c) the official receiver acting as receiver or manager;

(d) a person acting as a special manager under section 177 or 370 of the Insolvency Act 1986;

(e) the Accountant in Bankruptcy acting as **[** trustee **]**[3] or interim trustee in a sequestration (within the meaning of the **[** Bankruptcy (Scotland) Act 2016 **]**[4]);

(f) a person acting as a receiver or receiver and manager—

(i) under or by virtue of any enactment; or

(ii) by virtue of his appointment as such by an order of a court or by any other instrument.

(5) Regulations may make different provision for different cases or circumstances.
][1]

Notes

1 Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

2 Amended by Water Act 2003 c. 37 Pt 3 s.86(6) (April 6, 2012 as SI 2012/284)

3 Word substituted by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.1(1) para.7(a) (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

4 Word substituted by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.1(1) para.7(b) (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

Wales

[78X.— Supplementary provisions.

(1) Where it appears to a local authority that two or more different sites, when considered together, are in such a condition, by reason of substances in, on or under the land, that—

(a) significant harm is being caused or there is a significant possibility of such harm being caused, or

(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused,

this Part shall apply in relation to each of those sites, whether or not the condition of the land at any of them, when considered alone, appears to the authority to be such that significant harm, or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused.

(2) Where it appears to a local authority that any land outside, but adjoining or adjacent to, its area is in such a condition, by reason of substances in, on or under the land, that significant harm is being caused, or there is a significant possibility of such harm being caused, or that pollution of controlled waters is being, or is likely to be, caused within its area—

(a) the authority may, in exercising its functions under this Part, treat that land as if it were land situated within its area; and

(b) except in this subsection, any reference—

(i) to land within the area of a local authority, or

(ii) to the local authority in whose area any land is situated,

shall be construed accordingly;

but this subsection is without prejudice to the functions of the local authority in whose area the land is in fact situated.

(3) A person acting in a relevant capacity—

(a) shall not thereby be personally liable, under this Part, to bear the whole or any part of the cost of doing any thing by way of remediation, unless that thing is to any extent referable to substances whose presence in, on or under the contaminated land in question is a result of any act done or omission made by him which it was unreasonable for a person acting in that capacity to do or make; and

(b) shall not thereby be guilty of an offence under or by virtue of section 78M above unless the requirement which has not been complied with is a requirement to do some particular thing for which he is personally liable to bear the whole or any part of the cost.

(4) In subsection (3) above, “person acting in a relevant capacity” means —

(a) a person acting as an insolvency practitioner, within the meaning of section 388 of the Insolvency Act 1986 (including that section as it applies in relation to an insolvent partnership by virtue of any order made under section 421 of that Act);

(b) the official receiver acting in a capacity in which he would be regarded as acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 if subsection (5) of that section were disregarded;

(c) the official receiver acting as receiver or manager;

(d) a person acting as a special manager under section 177 or 370 of the Insolvency Act 1986;

(e) the Accountant in Bankruptcy acting as **[** trustee **]** [2] or interim trustee in a sequestration (within the meaning of the **[** Bankruptcy (Scotland) Act 2016 **]** [3]);

(f) a person acting as a receiver or receiver and manager—

(i) under or by virtue of any enactment; or

(ii) by virtue of his appointment as such by an order of a court or by any other instrument.

(5) Regulations may make different provision for different cases or circumstances.
] [1]

Notes

[1] Amended by Water Act 2003 c. 37 Pt 3 s.86(6) (April 6, 2012 as SI 2012/264)

[2] Word substituted by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.1(1) para.7(a) (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

[3] Word substituted by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.1(1) para.7(b) (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

Scotland

[78X.— Supplementary provisions.

(1) Where it appears to a local authority that two or more different sites, when considered together, are in such a condition, by reason of substances in, on or under the land, that—

(a) significant harm is being caused or there is a significant possibility of such harm being caused, or

(b) significant pollution of the water environment, is being caused, or there is a significant possibility of such pollution being caused,

this Part shall apply in relation to each of those sites, whether or not the condition of the land at any of them, when considered alone, appears to the authority to be such that significant harm, or significant pollution of the water environment, is being caused, or there is a significant possibility of such harm or pollution being caused.

(2) Where it appears to a local authority that any land outside, but adjoining or adjacent to, its area is in such a condition, by reason of substances in, on or under the land, that significant harm, or significant pollution of the water environment, is being caused, or there is a significant possibility of such harm or pollution being caused within its area—

(a) the authority may, in exercising its functions under this Part, treat that land as if it were land situated within its area; and

(b) except in this subsection, any reference—

(i) to land within the area of a local authority, or

(ii) to the local authority in whose area any land is situated,

shall be construed accordingly;

but this subsection is without prejudice to the functions of the local authority in whose area the land is in fact situated.

(3) A person acting in a relevant capacity—

(a) shall not thereby be personally liable, under this Part, to bear the whole or any part of the cost of doing any thing by way of remediation, unless that thing is to any extent referable to substances whose presence in, on or under the contaminated land in question is a result of any act done or omission made by him which it was unreasonable for a person acting in that capacity to do or make; and

(b) shall not thereby be guilty of an offence under or by virtue of section 78M above unless the requirement which has not been complied with is a requirement to do some particular thing for which he is personally liable to bear the whole or any part of the cost.

(4) In subsection (3) above, "person acting in a relevant capacity" means —

(a) a person acting as an insolvency practitioner, within the meaning of section 388 of the Insolvency Act 1986 (including that section as it applies in relation to an insolvent partnership by virtue of any order made under section 421 of that Act);

(b) the official receiver acting in a capacity in which he would be regarded as acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 if subsection (5) of that section were disregarded;

(c) the official receiver acting as receiver or manager;

(d) a person acting as a special manager under section 177 or 370 of the Insolvency Act 1986;

(e) the Accountant in Bankruptcy acting as **[** trustee **]** [2] or interim trustee in a sequestration (within the meaning of the **[** Bankruptcy (Scotland) Act 2016 **]** [3]);

(f) a person acting as a receiver or receiver and manager—

(i) under or by virtue of any enactment; or

(ii) by virtue of his appointment as such by an order of a court or by any other instrument **[** ; **]** [4]

[(g) in relation to property and rights that have vested as bona vacantia in the Crown, or that have fallen to the Crown as ultimus haeres, the Queen's and Lord Treasurer's Remembrancer. **]** [4]

[(4A) In subsection (4)(f)(i) above, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [5]

(5) Regulations may make different provision for different cases or circumstances.
] [1]

Notes

1 Amended by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(10) (April 1, 2006)

2 Word substituted by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.1(1) para.7(a) (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

3 Word substituted by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.1(1) para.7(b) (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

4 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.45(5) (June 30, 2014)

5 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(6) (June 30, 2014)

Extent

Pt IIA s. 78X(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[78Y.— Application to the Isles of Scilly.

(1) Subject to the provisions of any order under this section, this Part shall not apply in relation to the Isles of Scilly.

(2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Part to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.

(3) An order under this section may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

Extent

Pt IIA s. 78Y(1)-(3)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78YA.— Supplementary provisions with respect to guidance by the Secretary of State.

(1) Any power of the Secretary of State to issue guidance under this Part shall only be exercisable after consultation with the appropriate Agency and such other bodies or persons as he may consider it appropriate to consult in relation to the guidance in question.

(2) A draft of any guidance proposed to be issued under section 78A(2) or (5),78B(2) or 78F(6) or (7) above shall be laid before each House of Parliament and the guidance shall not be issued until

after the period of 40 days beginning with the day on which the draft was so laid or, if the draft is laid on different days, the later of the two days.

(3) If, within the period mentioned in subsection (2) above, either House resolves that the guidance, the draft of which was laid before it, should not be issued, the Secretary of State shall not issue that guidance.

(4) In reckoning any period of 40 days for the purposes of subsection (2) or (3) above, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

[(4A) Subsections (2) to (4) shall not apply in respect of a draft of any guidance to be issued under section 78A(2) or (5), 78B(2) or 78F(6) or (7) above which relates only to Scotland and such a draft shall be laid before the Scottish Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the draft was so laid.

(4B) If within the period mentioned in subsection (4A) above the Scottish Parliament resolves that the guidance, the draft of which was laid before it, should not be issued, the Scottish Ministers shall not issue that guidance.

(4C) In reckoning any period of 40 days for the purposes of subsection (4A) or (4B) above no account shall be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days. **]** [2]

(5) The Secretary of State shall arrange for any guidance issued by him under this Part to be published in such manner as he considers appropriate.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

[2] Added by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 Sch.2(I) para.102(3) (April 1, 2000: insertion comes into force on July 1, 1999 but cannot take effect until the coming into force of 1990 c.43 s.78YA in relation to England on April 1, 2000)

Scotland

[78YA.— Supplementary provisions with respect to guidance by the Secretary of State.

(1) Any power of the Secretary of State to issue guidance under this Part shall only be exercisable after consultation with the appropriate Agency and such other bodies or persons as he may consider it appropriate to consult in relation to the guidance in question.

(2) A draft of any guidance proposed to be issued under section 78A(2) or (5),78B(2) or 78F(6) or (7) above shall be laid before each House of Parliament and the guidance shall not be issued until after the period of 40 days beginning with the day on which the draft was so laid or, if the draft is laid on different days, the later of the two days.

(3) If, within the period mentioned in subsection (2) above, either House resolves that the guidance, the draft of which was laid before it, should not be issued, the Secretary of State shall not issue that guidance.

(4) In reckoning any period of 40 days for the purposes of subsection (2) or (3) above, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(4A) Subsections (2) to (4) shall not apply in respect of a draft of any guidance to be issued under section 78A(2) or (5), 78B(2) or 78F(6) or (7) above which relates only to Scotland and such a draft, and a draft of any guidance referred to in section 78QA(8) or section 78TA(6) above, shall be laid before the Scottish Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the draft was so laid.

(4B) If within the period mentioned in subsection (4A) above the Scottish Parliament resolves that the guidance, the draft of which was laid before it, should not be issued, the Scottish Ministers shall not issue that guidance.

(4C) In reckoning any period of 40 days for the purposes of subsection (4A) or (4B) above no account shall be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(5) The Secretary of State shall arrange for any guidance issued by him under this Part to be published in such manner as he considers appropriate.
] [1]

Notes

[1] Words inserted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Pt 3 c.4 s.45(6) (June 30, 2014)

Extent

Pt IIA s. 78YA(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Scotland | Wales

Law In Force

England

[78YB.— Interaction of this Part with other enactments.

[(1) This Part shall not apply if and to the extent that—

(a) any significant harm, or pollution of controlled waters, by reason of which land would otherwise fall to be regarded as contaminated, is attributable to the operation of a regulated facility; and

(b) enforcement action may be taken in relation to that harm or [significant] [3] pollution.] [2]

(3) If, in a case falling within subsection (1) or (7) of section 59 [, section 59ZA(1), 59ZB(1) or (8) or 59ZC(1)] [4] above, the land in question is contaminated land, or becomes such land by reason of the deposit [, keeping or disposal] [5] of the controlled waste in question, a remediation notice shall not be served in respect of that land by reason of that waste or any consequences of its deposit [, keeping or disposal] [5] , if and to the extent that it appears to the enforcing authority that the powers of a waste regulation authority or waste collection authority under [section 59, 59ZA, 59ZB or 59ZC (as the case may be)] [6] may be exercised in relation to that waste or the consequences of its deposit [, keeping or disposal] [5] .

(4) No remediation notice shall require a person to do anything the effect of which would be to impede or prevent the making of a discharge in pursuance of [an environmental permit] [7] or, in relation to Scotland, in pursuance of a consent given under Part II of the Control of Pollution Act 1974.

[(5) In this section—

"enforcement action" means action under [regulation 36, 37 or 42 of the Environmental Permitting (England and Wales) Regulations 2016] [8] ;

"regulated facility" has the meaning given in regulation 8 of those Regulations.

] [2]

] [1]

Notes

1 Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

2 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 Sch.21(1) para.18 (April 6, 2008)

3 Word inserted by Water Act 2003 c. 37 Pt 3 s.86(7) (April 6, 2012 as SI 2012/264)

4 Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.5(a) (May 8, 2018)

5 Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.5(b) (May 8, 2018)

6 Words substituted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.5(c) (May 8, 2018)

7 Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(10) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

8 Words substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(5) (January 1, 2017)

Scotland

78YB.— Interaction of this Part with other enactments.

(1) A remediation notice shall not be served if and to the extent that it appears to the enforcing authority that the powers of the appropriate Agency under section 27 above may be exercised in relation to—

(a) the significant harm (if any), and

(b) the significant pollution of the water environment (if any),
by reason of which the contaminated land in question is such land.

[(1A) A remediation notice shall not be served if and to the extent that it appears to the enforcing authority that—

(a) the significant harm (if any) and the significant pollution of the water environment (if any), by reason of which the contaminated land in question is such land, is as a result of an activity to which the Water Environment (Controlled Activities) (Scotland) Regulations 2011[2] ("the Regulations") apply; and

(b) one or more of the following sub-paragraphs apply—

(i) the activity is authorised under the Regulations;

(ii) the Scottish Environment Protection Agency has served, or has advised the enforcing authority that it intends to serve, a notice under regulation 32(2) (enforcement notices) of the Regulations requiring steps to be taken to prevent, mitigate or remedy the harm or pollution in question; or

(iii) the Scottish Environment Protection Agency has taken, is taking, or has advised the enforcing authority that it intends to take, steps to prevent, mitigate or remedy the harm or pollution in question (or has secured, is securing, or has advised the enforcing authority that it intends to secure, the taking of such steps) under regulation 33(1) (power of SEPA to carry out works) of the Regulations.

] [1]

(2) Nothing in this Part shall apply in relation to any land in respect of which there is for the time being in force a site licence under Part II above, except to the extent that any significant harm, or significant pollution of the water environment, by reason of which that land would otherwise fall to be regarded as contaminated land is attributable to causes other than—

(a) breach of the conditions of the licence; or

(b) the carrying on, in accordance with the conditions of the licence, of any activity authorised by the licence.

(2A) This Part shall not apply if and to the extent that–

(a) any significant harm, or pollution of the water environment, by reason of which the land would otherwise fall to be regarded as contaminated, is attributable to the final disposal by deposit in or on land of controlled waste); and

(b) enforcement action may be taken in relation to that activity.

(2B) A remediation notice shall not be served in respect of contaminated land if and to the extent that–

(a) the significant harm, or pollution of the water environment, by reason of which the contaminated land is such land is attributable to an activity (other than the final disposal by deposit in or on land of controlled waste); and

(b) enforcement action may be taken in relation to that activity.

(2C) In subsections (2A) and (2B) above–

"controlled waste" has the meaning given in section 75(4) of this Act;

["enforcement action" means action under regulation 55 (SEPA: enforcement notices) or regulation 57(2) (SEPA: power to prevent or remedy pollution) of the Pollution Prevention and Control (Scotland) Regulations 2012. **]** [3]

(3) If, in a case falling within subsection (1) or (7) of section 59 above, the land in question is contaminated land, or becomes such land by reason of the deposit of the controlled waste in question,

a remediation notice shall not be served in respect of that land by reason of that waste or any consequences of its deposit, if and to the extent that it appears to the enforcing authority that the powers of a waste regulation authority or waste collection authority under that section may be exercised in relation to that waste or the consequences of its deposit.

(4) No remediation notice shall require a person to do anything the effect of which would be to impede or prevent the making of a discharge in pursuance of a consent given under Chapter II of Part III of the Water Resources Act 1991 (pollution offences) or, in relation to Scotland, in pursuance of a consent given under Part II of the Control of Pollution Act 1974.

Notes

1 Substituted by Water Environment (Amendment of Part IIA of the Environmental Protection Act 1990: Contaminated Land) (Scotland) Regulations 2016/99 (Scottish SI) reg.2 (March 8, 2016)

2 S.S.I. 2011/209, as amended by S.S.I. 2012/360, S.S.I. 2013/176, S.S.I. 2013/323, S.S.I. 2013/325, S.S.I. 2014/373 and S.S.I. 2015/211.

3 Definition substituted by Pollution Prevention and Control (Scotland) Regulations 2012/360 (Scottish SI) Sch.11(1) para.1(5) (January 7, 2013: substitution has effect subject to transitional provisions specified in SSI 2012/360 reg.72 and Sch.10)

Wales

78YB.— Interaction of this Part with other enactments.

(1) This Part shall not apply if and to the extent that—

(a) any significant harm, or pollution of controlled waters, by reason of which land would otherwise fall to be regarded as contaminated, is attributable to the operation of a regulated facility; and

(b) enforcement action may be taken in relation to that harm or [significant] [1] pollution.

(3) If, in a case falling within subsection (1) or (7) of section 59 [, section 59ZA(1), 59ZB(1) or (8) or 59ZC(1)] [2] above, the land in question is contaminated land, or becomes such land by reason of the deposit [, keeping or disposal] [3] of the controlled waste in question, a remediation notice shall not be served in respect of that land by reason of that waste or any consequences of its deposit [, keeping or disposal] [3] , if and to the extent that it appears to the enforcing authority that the powers of a waste regulation authority or waste collection authority under [section 59, 59ZA, 59ZB or 59ZC (as the case may be)] [4] may be exercised in relation to that waste or the consequences of its deposit [, keeping or disposal] [3] .

(4) No remediation notice shall require a person to do anything the effect of which would be to impede or prevent the making of a discharge in pursuance of [an environmental permit] [5] or, in relation to Scotland, in pursuance of a consent given under Part II of the Control of Pollution Act 1974.

(5) In this section—

"enforcement action" means action under [regulation 36, 37 or 42 of the Environmental Permitting (England and Wales) Regulations 2016] [6] ;

"regulated facility" has the meaning given in regulation 8 of those Regulations.

Notes

1 Word inserted by Water Act 2003 c. 37 Pt 3 s.86(7) (April 6, 2012 as SI 2012/284)

2 Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.5(a) (May 8, 2018)

3 Words inserted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.5(b) (May 8, 2018)

4 Words substituted by Waste Enforcement (England and Wales) Regulations 2018/369 Sch.1 para.5(c) (May 8, 2018)

5 Amended by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(10) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

6 Words substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(5) (January 1, 2017)

Extent

Pt IIA s. 78YB(2)-(2B), (2B)(a)-(2B)(b), (2C)-(2C) definition of "enforcement action": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt IIA s. 78YB(5), (5) definition of "enforcement action"-(5) definition of "regulated facility": England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[78YC This Part and radioactivity.

Except as provided by regulations, nothing in this Part applies in relation to harm, or pollution of controlled waters, so far as attributable to any radioactivity possessed by any substance; but regulations may—

(a) provide for prescribed provisions of this Part to have effect with such modifications as the Secretary of State considers appropriate for the purpose of dealing with harm, or pollution of controlled waters, so far as attributable to any radioactivity possessed by any substances; or

(b) make such modifications of **[[** the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) **]** [3] or any Act or other enactment **]** [2] as the Secretary of State considers appropriate.

] [1]

Notes

1 Added by Environment Act 1995 c. 25 Pt II s.57 (April 1, 2000: September 21, 1995 as specified in SI 1995/1983 art.3; April 1, 2000 in relation to England; July 14, 2000 in relation to Scotland except for insertion of 1990 c.43 s.78S; July 14, 2000 in relation to Scotland otherwise; September 15, 2001 in relation to Wales)

2 Words substituted by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(11) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

[3] Words substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(6) (January 1, 2017)

Scotland

[78YC This Part and radioactivity.

Except as provided by regulations, nothing in this Part applies in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance; but regulations may—

(a) provide for prescribed provisions of this Part to have effect with such modifications as the Secretary of State considers appropriate for the purpose of dealing with harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substances; or

(b) make such modifications of the Radioactive Substances Act 1993 or any other Act as the Secretary of State considers appropriate.

] [1]

Notes

[1] Words substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(2) (April 1, 2006)

Extent

Pt IIA s. 78YC(a)-(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART III

STATUTORY NUISANCES AND CLEAN AIR

Statutory nuisances ***[…]***[1]

Notes

[1] Words repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Scotland | Wales

Law In Force With Amendments Pending

England

[79.— Statutory nuisances and inspections therefor.

(1) Subject to subsections (1A) to (6A) below, the following matters constitute "statutory nuisances" for the purposes of this Part, that is to say—

(a) any premises in such a state as to be prejudicial to health or a nuisance;

(b) smoke emitted from premises so as to be prejudicial to health or a nuisance;

(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;

(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

(e) any accumulation or deposit which is prejudicial to health or a nuisance;

(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;

[(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance; **]** [2]

[(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance; **]** [3]

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road;

(h) any other matter declared by any enactment to be a statutory nuisance;

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below or sections 80 and 80A below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.

(1A) No matter shall constitute a statutory nuisance to the extent that it consists of, or is caused by, any land being in a contaminated state.

(1B) Land is in a "contaminated state" for the purposes of subsection (1A) above if, and only if, it is in such a condition, by reason of substances in, on or under the land, that—

(a) harm is being caused or there is a possibility of harm being caused; or

(b) pollution of controlled waters is being, or is likely to be, caused;

and in this subsection "harm" , "pollution of controlled waters" and "substance" have the same meaning as in Part IIA of this Act.

(2) Subsection (1)(b) **[** , (fb) **]** [3] and (g) above do not apply in relation to premises—

(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or

(b) occupied by or for the purposes of a visiting force;

and "visiting force" means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952.

(3) Subsection (1)(b) above does not apply to—

(i) smoke emitted from a chimney of a private dwelling within a smoke control area,

Westlaw UK

(ii) dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land,
(iii) smoke emitted from a railway locomotive steam engine, or
(iv) dark smoke emitted otherwise than as mentioned above from industrial or trade premises.

(4) Subsection (1)(c) above does not apply in relation to premises other than private dwellings.

(5) Subsection (1)(d) above does not apply to steam emitted from a railway locomotive engine.

[(5A) Subsection (1)(fa) does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only. **]** [2]

[(5B) Subsection (1)(fb) does not apply to artificial light emitted from–
(a) an airport;
(b) harbour premises;
(c) railway premises, not being relevant separate railway premises;
(d) tramway premises;
(e) a bus station and any associated facilities;
(f) a public service vehicle operating centre;
(g) a goods vehicle operating centre;
(h) a lighthouse;
(i) a prison.
] [3]

(6) Subsection (1)(g) above does not apply to noise caused by aircraft other than model aircraft.

(6A) Subsection (1)(ga) above does not apply to noise made—
(a) by traffic,
(b) by any naval, military or air force of the Crown or by a visiting force (as defined in subsection (2) above), or
(c) by a political demonstration or a demonstration supporting or opposing a cause or campaign.

(7) In this Part—
[
["airport" has the meaning given by section 95 of the Transport Act 2000; **]** [3]
"appropriate person" means–
(a) in relation to England, the Secretary of State;
(b) in relation to Wales, the National Assembly for Wales;
] [2]
["associated facilities", in relation to a bus station, has the meaning given by section 83 of the Transport Act 1985;
"bus station" has the meaning given by section 83 of the Transport Act 1985; **]** [3]
"chimney" includes structures and openings of any kind from or through which smoke may be emitted;
"dust" does not include dust emitted from a chimney as an ingredient of smoke;
"equipment" includes a musical instrument;
"fumes" means any airborne solid matter smaller than dust;
"gas" includes vapour and moisture precipitated from vapour;

["goods vehicle operating centre" , in relation to vehicles used under an operator's licence, means a place which is specified in the licence as an operating centre for those vehicles, and for the purposes of this definition "operating centre" and "operator's licence" have the same meaning as in the Goods Vehicles (Licensing of Operators) Act 1995;

"harbour premises" means premises which form part of a harbour area and which are occupied wholly or mainly for the purposes of harbour operations, and for the purposes of this definition "harbour area" and "harbour operations" have the same meaning as in Part 3 of the Aviation and Maritime Security Act 1990; **]** [3]

"industrial, trade or business premises" means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purposes of manufacturing;

["lighthouse" has the same meaning as in Part 8 of the Merchant Shipping Act 1995; **]** [3]

"local authority" means, subject to subsection (8) below,—

(a) in Greater London, a London borough council, the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

(b) in England outside Greater London, a district council;

(bb) in Wales, a county council or county borough council;

(c) the Council of the Isles of Scilly; and

(d) in Scotland, a district or islands council or a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

"noise" includes vibration;

"person responsible" —

(a) in relation to a statutory nuisance, means the person to whose act, default or sufferance the nuisance is attributable;

(b) in relation to a vehicle, includes the person in whose name the vehicle is for the time being registered under the Vehicle Excise and Registration Act 1994 and any other person who is for the time being the driver of the vehicle;

(c) in relation to machinery or equipment, includes any person who is for the time being the operator of the machinery or equipment;

"prejudicial to health" means injurious, or likely to cause injury, to health;

"premises" includes land and, subject to subsection (12) and, in relation to England and Wales, section 81A(9) below, any vessel;

["prison" includes a young offender institution; **]** [3]

"private dwelling" means any building, or part of a building, used or intended to be used, as a dwelling;

["public service vehicle operating centre" , in relation to public service vehicles used under a PSV operator's licence, means a place which is an operating centre of those vehicles, and for the purposes of this definition "operating centre" , "PSV operator's licence" and "public service vehicle" have the same meaning as in the Public Passenger Vehicles Act 1981;

"railway premises" means any premises which fall within the definition of "light maintenance depot", "network", "station" or "track" in section 83 of the Railways Act 1993;

"relevant separate railway premises" has the meaning given by subsection (7A); **]** [3]

"road" has the same meaning as in Part IV of the New Roads and Street Works Act 1991;

"smoke" includes soot, ash, grit and gritty particles emitted in smoke;

"street" means a highway and any other road, footway, square or court that is for the time being open to the public; **[** ; **]** [3]

["tramway premises" means any premises which, in relation to a tramway, are the equivalent of the premises which, in relation to a railway, fall within the definition of "light maintenance depot", "network", "station" or "track" in section 83 of the Railways Act 1993; **]** [3]

and any expressions used in this section and in the Clean Air Act 1993 have the same meaning in this section as in that Act and section 3 of the Clean Air Act 1993 shall apply for the interpretation of the expression "dark smoke" and the operation of this Part in relation to it.

[(7A) Railway premises are relevant separate railway premises if–

(a) they are situated within–

(i) premises used as a museum or other place of cultural, scientific or historical interest, or

(ii) premises used for the purposes of a funfair or other entertainment, recreation or amusement, and

(b) they are not associated with any other railway premises.

(7B) For the purposes of subsection (7A)–

(a) a network situated as described in subsection (7A)(a) is associated with other railway premises if it is connected to another network (not being a network situated as described in subsection (7A)(a));

(b) track that is situated as described in subsection (7A)(a) but is not part of a network is associated with other railway premises if it is connected to track that forms part of a network (not being a network situated as described in subsection (7A)(a));

(c) a station or light maintenance depot situated as described in subsection (7A)(a) is associated with other railway premises if it is used in connection with the provision of railway services other than services provided wholly within the premises where it is situated.

In this subsection "light maintenance depot" , "network" , "railway services" , "station" and "track" have the same meaning as in Part 1 of the Railways Act 1993.

] [3]

[(7C) In this Part "relevant industrial, trade or business premises" means premises that are industrial, trade or business premises as defined in subsection (7), but excluding–

(a) land used as arable, grazing, meadow or pasture land,

(b) land used as osier land, reed beds or woodland,

(c) land used for market gardens, nursery grounds or orchards,

(d) land forming part of an agricultural unit, not being land falling within any of paragraphs (a) to (c), where the land is of a description prescribed by regulations made by the appropriate person, and

(e) land included in a site of special scientific interest (as defined in section 52(1) of the Wildlife and Countryside Act 1981),

and excluding land covered by, and the waters of, any river or watercourse, that is neither a sewer nor a drain, or any lake or pond.

(7D) For the purposes of subsection (7C)–

"agricultural" has the same meaning as in section 109 of the Agriculture Act 1947;

"agricultural unit" means land which is occupied as a unit for agricultural purposes;

"drain" has the same meaning as in the Water Resources Act 1991;

"lake or pond" has the same meaning as in section 104 of that Act;

"sewer" has the same meaning as in that Act.

] [2]

(8) Where, by an order under section 2 of the Public Health (Control of Disease) Act 1984, a port health authority has been constituted for any port health district or in Scotland where by an order under section 172 of the Public Health (Scotland) Act 1897 a port local authority or a joint port local authority has been constituted for the whole or part of a port, the port health authority, port local authority or joint port local authority, as the case may be shall have by virtue of this subsection, as respects its district, the functions conferred or imposed by this Part in relation to statutory nuisances other than a nuisance falling within paragraph **[** (fb), **]** [3] (g) or (ga) of subsection (1) above and no such order shall be made assigning those functions; and "local authority" and "area" shall be construed accordingly.

(9) In this Part "best practicable means" is to be interpreted by reference to the following provisions—

(a) "practicable" means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications;

(b) the means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and structures;

(c) the test is to apply only so far as compatible with any duty imposed by law;

(d) the test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances;

and, in circumstances where a code of practice under section 71 of the Control of Pollution Act 1974 (noise minimisation) is applicable, regard shall also be had to guidance given in it.

(10) A local authority shall not without the consent of the Secretary of State institute summary proceedings under this Part in respect of a nuisance falling within paragraph (b), (d), (e) **[**, (fb) **]** [3] or (g) and in relation to Scotland, paragraph (ga), of subsection (1) above if proceedings in respect thereof might be instituted under Part I or under regulations under section 2 of the Pollution Prevention and Control Act 1999.

(11) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part the territorial sea lying seawards from that part of the shore; and subject to subsection (12) and , in relation to England and Wales,section 81A(9) below, this Part shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(a) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel; and

(b) with such other modifications, if any, as are prescribed in regulations made by the Secretary of State.

(12) A vessel powered by steam reciprocating machinery is not a vessel to which this Part of this Act applies.

] [1]

Notes

[1] Amended by Environment Act 1995 c. 25 Sch.22 para.89 (September 15, 2001 as SI 2001/3211)

[2] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.101 (April 6, 2006 as SI 2006/795)

[3] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.102 (April 6, 2006 as SI 2006/795)

Scotland

[79.— Statutory nuisances and inspections therefor.

(1) Subject to subsections **[** (1ZA) **]** [2] to (6A) below, the following matters constitute "statutory nuisances" for the purposes of this Part, that is to say—

(a) any premises in such a state as to be prejudicial to health or a nuisance;

(b) smoke emitted from premises so as to be prejudicial to health or a nuisance;

(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;

(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

(e) any accumulation or deposit which is prejudicial to health or a nuisance;

[(ea) any water covering land or land covered with water which is in such a state as to be prejudicial to health or a nuisance; **]** [3]

(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;

[(faa) any insects emanating from premises and being prejudicial to health or a nuisance; **]** [4]

[(fba) artificial light emitted from—

(i) premises;

(ii) any stationary object,

so as to be prejudicial to health or a nuisance;

] [5]

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road;

(h) any other matter declared by any enactment to be a statutory nuisance;

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below or sections 80 and 80A below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.

[(1ZA) The Scottish Ministers may by regulations—

(a) amend this section so as to—

(i) prescribe additional matters which constitute statutory nuisances for the purposes of this Part;

(ii) vary the description of any matter which constitutes a statutory nuisance;

(b) in relation to an amendment under paragraph (a), amend this Act and any other enactment to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Scottish Ministers consider appropriate.

(1ZB) Before making regulations under subsection (1ZA) above, the Scottish Ministers must consult, in so far as it is reasonably practicable to do so, the persons mentioned in subsection (1ZC) below.

(1ZC) Those persons are—

(a) such associations of local authorities; and

(b) such other persons,

as the Scottish Ministers consider appropriate.
] [2]

(1A) No matter shall constitute a statutory nuisance to the extent that it consists of, or is caused by, any land being in a contaminated state.

(1B) Land is in a "contaminated state" for the purposes of sub section (1A) above if, and only if, it is in such a condition, by reason of substances in, on or under the land, that–

(a) significant harm is being caused or there is a significant possibility of such harm being caused; or

(b) significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused;

and in this subsection "harm" , "pollution" in relation to the water environment, "substance" and "the water environment" have the same meanings as in Part IIA of this Act.

(2) Subsection (1)(b) **[** , (fba) **]** [5] and (g) above do not apply in relation to premises **[** (or, in respect of paragraph (fba)(ii) above, a stationary object located on premises) **]** [5] —

(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or

(b) occupied by or for the purposes of a visiting force;

and "visiting force" means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952.

(3) Subsection (1)(b) above does not apply to—

(i) smoke emitted from a chimney of a private dwelling within a smoke control area,

(ii) dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land,

(iii) smoke emitted from a railway locomotive steam engine, or

(iv) dark smoke emitted otherwise than as mentioned above from industrial or trade premises.

(4) Subsection (1)(c) above does not apply in relation to premises other than private dwellings.

(5) Subsection (1)(d) above does not apply to steam emitted from a railway locomotive engine.

[(5ZA) For the purposes of subsection (1)(ea) above, "land" —

(a) includes structures (other than buildings) in, on or over land;

(b) does not include—

(i) mains or other pipes used for carrying a water supply;

(ii) any part of the public sewerage system;

(iii) any other sewers, drains or other pipes used for carrying sewage;

(iv) the foreshore, that is to say, the land between the high and low water marks of ordinary spring tides;

(v) the seabed.

(5ZB) In subsection (5ZA) above—

"drain" , "sewage" and "sewer" have the meanings given by section 59 of the Sewerage (Scotland) Act 1968 (c.47);

"main" has the meaning given by section 109(1) of the Water (Scotland) Act 1980 (c.45);

"pipe" includes a service pipe within the meaning of that section of that Act;

"public sewerage system" has the meaning given by section 29 of the Water Services etc. (Scotland) Act 2005 (asp 3).

] [3]

[(5AA) Subsection (1)(faa) above does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (c.69).

(5AB) For the purposes of subsection (1)(faa) above, "premises" does not include—

(a) a site of special scientific interest (within the meaning of section 3(6) of the Nature Conservation (Scotland) Act 2004 (asp 6));

(b) such other place (or type of place) as may be prescribed in regulations made by the Scottish Ministers.

(5AC) Before making regulations under subsection (5AB)(b) above, the Scottish Ministers must consult, in so far as it is reasonably practicable to do so, the persons mentioned in subsection (5AD) below.

(5AD) Those persons are—

(a) such associations of local authorities; and

(b) such other persons,

as the Scottish Ministers consider appropriate.

] [4]

[(5BA) Subsection (1)(fba) above does not apply to artificial light emitted from a lighthouse (within the meaning of Part 8 of the Merchant Shipping Act 1995 (c.21)). **]** [5]

(6) Subsection (1)(g) above does not apply to noise caused by aircraft other than model aircraft.

(6A) Subsection (1)(ga) above does not apply to noise made—

(a) by traffic,

(b) by any naval, military or air force of the Crown or by a visiting force (as defined in subsection (2) above), or

(c) by a political demonstration or a demonstration supporting or opposing a cause or campaign.

[(6B) In this section, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [6]

(7) In this Part—

"chimney" includes structures and openings of any kind from or through which smoke may be emitted;

"dust" does not include dust emitted from a chimney as an ingredient of smoke;

"equipment" includes a musical instrument;

"fumes" means any airborne solid matter smaller than dust;

"gas" includes vapour and moisture precipitated from vapour;

"industrial, trade or business premises" means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purposes of manufacturing;

"local authority" means **[…]**[7] **[…]**[7] —

(a) in Greater London, a London borough council, the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

(b) in England outside Greater London, a district council;

(bb) in Wales, a county council or county borough council;

(c) the Council of the Isles of Scilly; and

(d) in Scotland, a district or islands council or a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

"noise" includes vibration;

"person responsible" —

(a) in relation to a statutory nuisance, means the person to whose act, default or sufferance the nuisance is attributable;

(b) in relation to a vehicle, includes the person in whose name the vehicle is for the time being registered under the Vehicle Excise and Registration Act 1994 and any other person who is for the time being the driver of the vehicle;

(c) in relation to machinery or equipment, includes any person who is for the time being the operator of the machinery or equipment;

"prejudicial to health" means injurious, or likely to cause injury, to health;

"premises" includes land **[** (subject to subsection (5AB) above) **]**[4] and, subject to subsection (12) and, in relation to England and Wales, section 81A(9) below, any vessel;

"private dwelling" means any building, or part of a building, used or intended to be used, as a dwelling;

"road" has the same meaning as in Part IV of the New Roads and Street Works Act 1991;

"smoke" includes soot, ash, grit and gritty particles emitted in smoke;

"street" means a highway and any other road, footway, square or court that is for the time being open to the public;.

and any expressions used in this section and in the Clean Air Act 1993 have the same meaning in this section as in that Act and section 3 of the Clean Air Act 1993 shall apply for the interpretation of the expression "dark smoke" and the operation of this Part in relation to it.

(8) Where, by an order under section 2 of the Public Health (Control of Disease) Act 1984 , a port health authority has been constituted for any port health district **[…]**[7] the port health authority **[…]**[7] shall have by virtue of this subsection, as respects its district, the functions conferred or imposed by this Part in relation to statutory nuisances other than a nuisance falling within paragraph (g) or (ga) of subsection (1) above and no such order shall be made assigning those functions; and "local authority" and "area" shall be construed accordingly.

(9) In this Part "best practicable means" is to be interpreted by reference to the following provisions—

(a) "practicable" means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications;

(b) the means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and structures;

(c) the test is to apply only so far as compatible with any duty imposed by law;

(d) the test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances;

and, in circumstances where a code of practice under section 71 of the Control of Pollution Act 1974 (noise minimisation) is applicable, regard shall also be had to guidance given in it.

(10) A local authority shall not without the consent of the Secretary of State institute summary proceedings under this Part in respect of a nuisance falling within paragraph (b), (d), (e) or (g) and in relation to Scotland, paragraph (ga), of subsection (1) above if proceedings in respect thereof might be instituted under **[…]**[8] section 2 of the Pollution Prevention and Control Act 1999 **[** or section 18 of the Regulatory Reform (Scotland) Act 2014 **]**[9] .

(11) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part the territorial sea lying seawards from that part of the shore; and subject to subsection (12) and , in relation to England and Wales,section 81A(9) below, this Part shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(a) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel; and

(b) with such other modifications, if any, as are prescribed in regulations made by the Secretary of State.

(12) A vessel powered by steam reciprocating machinery is not a vessel to which this Part of this Act applies.

][1]

Notes

1 Substituted by Contaminated Land (Scotland) Regulations 2005/658 (Scottish SI) reg.2(12) (April 1, 2006)

2 Amended by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.112(2) (January 26, 2009)

3 Amended by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.111 (January 26, 2009)

4 Amended by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.109 (January 26, 2009)

5 Amended by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.110 (January 26, 2009)

6 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(7) (June 30, 2014)

7 Amended by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Sch.3(1) para.1 (October 1, 2009: as SSI 2009/319)

8 Words repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(a) (June 30, 2014)

9 Words inserted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(1) para.3(5) (June 30, 2014)

Wales

[79.— Statutory nuisances and inspections therefor.

(1) Subject to subsections (1A) to (6A) below, the following matters constitute “statutory nuisances” for the purposes of this Part, that is to say—

(a) any premises in such a state as to be prejudicial to health or a nuisance;

(b) smoke emitted from premises so as to be prejudicial to health or a nuisance;

(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;

(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

(e) any accumulation or deposit which is prejudicial to health or a nuisance;

(f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;

(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;

[(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance; **]** [2]

(g) noise emitted from premises so as to be prejudicial to health or a nuisance;

(ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road;

(h) any other matter declared by any enactment to be a statutory nuisance;

and it shall be the duty of every local authority to cause its area to be inspected from time to time to detect any statutory nuisances which ought to be dealt with under section 80 below or sections 80 and 80A below and, where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint.

(1A) No matter shall constitute a statutory nuisance to the extent that it consists of, or is caused by, any land being in a contaminated state.

(1B) Land is in a "contaminated state" for the purposes of subsection (1A) above if, and only if, it is in such a condition, by reason of substances in, on or under the land, that—

(a) harm is being caused or there is a possibility of harm being caused; or

(b) pollution of controlled waters is being, or is likely to be, caused;

and in this subsection "harm" , "pollution of controlled waters" and "substance" have the same meaning as in Part IIA of this Act.

(2) Subsection (1)(b) **[** , (fb) **]** [2] and (g) above do not apply in relation to premises—

(a) occupied on behalf of the Crown for naval, military or air force purposes or for the purposes of the department of the Secretary of State having responsibility for defence, or

(b) occupied by or for the purposes of a visiting force;

and "visiting force" means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952.

(3) Subsection (1)(b) above does not apply to—

(i) smoke emitted from a chimney of a private dwelling within a smoke control area,

(ii) dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or for the time being fixed to or installed on any land,

(iii) smoke emitted from a railway locomotive steam engine, or

(iv) dark smoke emitted otherwise than as mentioned above from industrial or trade premises.

(4) Subsection (1)(c) above does not apply in relation to premises other than private dwellings.

(5) Subsection (1)(d) above does not apply to steam emitted from a railway locomotive engine.

(5A) Subsection (1)(fa) does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only.

[(5B) Subsection (1)(fb) does not apply to artificial light emitted from–

(a) an airport;

(b) harbour premises;

(c) railway premises, not being relevant separate railway premises;

(d) tramway premises;

(e) a bus station and any associated facilities;

(f) a public service vehicle operating centre;

(g) a goods vehicle operating centre;
(h) a lighthouse;
(i) a prison.
] [2]

(6) Subsection (1)(g) above does not apply to noise caused by aircraft other than model aircraft.

(6A) Subsection (1)(ga) above does not apply to noise made—
(a) by traffic,
(b) by any naval, military or air force of the Crown or by a visiting force (as defined in subsection (2) above), or
(c) by a political demonstration or a demonstration supporting or opposing a cause or campaign.

(7) In this Part—
["airport" has the meaning given by section 95 of the Transport Act 2000; **]** [2]
"appropriate person" means–
(a) in relation to England, the Secretary of State;
(b) in relation to Wales, the National Assembly for Wales;
["associated facilities", in relation to a bus station, has the meaning given by section 83 of the Transport Act 1985;
"bus station" has the meaning given by section 83 of the Transport Act 1985; **]** [2]
"chimney" includes structures and openings of any kind from or through which smoke may be emitted;
"dust" does not include dust emitted from a chimney as an ingredient of smoke;
"equipment" includes a musical instrument;
"fumes" means any airborne solid matter smaller than dust;
"gas" includes vapour and moisture precipitated from vapour;
["goods vehicle operating centre" , in relation to vehicles used under an operator's licence, means a place which is specified in the licence as an operating centre for those vehicles, and for the purposes of this definition "operating centre" and "operator's licence" have the same meaning as in the Goods Vehicles (Licensing of Operators) Act 1995;
"harbour premises" means premises which form part of a harbour area and which are occupied wholly or mainly for the purposes of harbour operations, and for the purposes of this definition "harbour area" and "harbour operations" have the same meaning as in Part 3 of the Aviation and Maritime Security Act 1990; **]** [2]
"industrial, trade or business premises" means premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purposes of manufacturing;
["lighthouse" has the same meaning as in Part 8 of the Merchant Shipping Act 1995; **]** [2]
"local authority" means, subject to subsection (8) below,—
(a) in Greater London, a London borough council, the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;
(b) in England outside Greater London, a district council;
(bb) in Wales, a county council or county borough council;
(c) the Council of the Isles of Scilly; and

(d) in Scotland, a district or islands council or a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

"noise" includes vibration;

"person responsible" —

(a) in relation to a statutory nuisance, means the person to whose act, default or sufferance the nuisance is attributable;

(b) in relation to a vehicle, includes the person in whose name the vehicle is for the time being registered under the Vehicle Excise and Registration Act 1994 and any other person who is for the time being the driver of the vehicle;

(c) in relation to machinery or equipment, includes any person who is for the time being the operator of the machinery or equipment;

"prejudicial to health" means injurious, or likely to cause injury, to health;

"premises" includes land and, subject to subsection (12) and, in relation to England and Wales, section 81A(9) below, any vessel;

["prison" includes a young offender institution; **]** [2]

"private dwelling" means any building, or part of a building, used or intended to be used, as a dwelling;

["public service vehicle operating centre" , in relation to public service vehicles used under a PSV operator's licence, means a place which is an operating centre of those vehicles, and for the purposes of this definition "operating centre" , "PSV operator's licence" and "public service vehicle" have the same meaning as in the Public Passenger Vehicles Act 1981;

"railway premises" means any premises which fall within the definition of "light maintenance depot", "network", "station" or "track" in section 83 of the Railways Act 1993;

"relevant separate railway premises" has the meaning given by subsection (7A); **]** [2]

"road" has the same meaning as in Part IV of the New Roads and Street Works Act 1991;

"smoke" includes soot, ash, grit and gritty particles emitted in smoke;

"street" means a highway and any other road, footway, square or court that is for the time being open to the public; **[** ; **]** [2]

["tramway premises" means any premises which, in relation to a tramway, are the equivalent of the premises which, in relation to a railway, fall within the definition of "light maintenance depot", "network", "station" or "track" in section 83 of the Railways Act 1993; **]** [2]

and any expressions used in this section and in the Clean Air Act 1993 have the same meaning in this section as in that Act and section 3 of the Clean Air Act 1993 shall apply for the interpretation of the expression "dark smoke" and the operation of this Part in relation to it.

[(7A) Railway premises are relevant separate railway premises if–

(a) they are situated within–

(i) premises used as a museum or other place of cultural, scientific or historical interest, or

(ii) premises used for the purposes of a funfair or other entertainment, recreation or amusement, and

(b) they are not associated with any other railway premises.

(7B) For the purposes of subsection (7A)–

(a) a network situated as described in subsection (7A)(a) is associated with other railway premises if it is connected to another network (not being a network situated as described in subsection (7A)(a));

(b) track that is situated as described in subsection (7A)(a) but is not part of a network is associated with other railway premises if it is connected to track that forms part of a network (not being a network situated as described in subsection (7A)(a));

(c) a station or light maintenance depot situated as described in subsection (7A)(a) is associated with other railway premises if it is used in connection with the provision of railway services other than services provided wholly within the premises where it is situated.

In this subsection "light maintenance depot" , "network" , "railway services" , "station" and "track" have the same meaning as in Part 1 of the Railways Act 1993.
] [2]

(7C) In this Part "relevant industrial, trade or business premises" means premises that are industrial, trade or business premises as defined in subsection (7), but excluding–

(a) land used as arable, grazing, meadow or pasture land,

(b) land used as osier land, reed beds or woodland,

(c) land used for market gardens, nursery grounds or orchards,

(d) land forming part of an agricultural unit, not being land falling within any of paragraphs (a) to (c), where the land is of a description prescribed by regulations made by the appropriate person, and

(e) land included in a site of special scientific interest (as defined in section 52(1) of the Wildlife and Countryside Act 1981),

and excluding land covered by, and the waters of, any river or watercourse, that is neither a sewer nor a drain, or any lake or pond.

(7D) For the purposes of subsection (7C)–

"agricultural" has the same meaning as in section 109 of the Agriculture Act 1947;

"agricultural unit" means land which is occupied as a unit for agricultural purposes;

"drain" has the same meaning as in the Water Resources Act 1991;

"lake or pond" has the same meaning as in section 104 of that Act;

"sewer" has the same meaning as in that Act.

(8) Where, by an order under section 2 of the Public Health (Control of Disease) Act 1984, a port health authority has been constituted for any port health district or in Scotland where by an order under section 172 of the Public Health (Scotland) Act 1897 a port local authority or a joint port local authority has been constituted for the whole or part of a port, the port health authority, port local authority or joint port local authority, as the case may be shall have by virtue of this subsection, as respects its district, the functions conferred or imposed by this Part in relation to statutory nuisances other than a nuisance falling within paragraph **[** (fb), **]** [2] (g) or (ga) of subsection (1) above and no such order shall be made assigning those functions; and "local authority" and "area" shall be construed accordingly.

(9) In this Part "best practicable means" is to be interpreted by reference to the following provisions—

(a) "practicable" means reasonably practicable having regard among other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications;

(b) the means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and structures;

(c) the test is to apply only so far as compatible with any duty imposed by law;

(d) the test is to apply only so far as compatible with safety and safe working conditions, and with the exigencies of any emergency or unforeseeable circumstances;

and, in circumstances where a code of practice under section 71 of the Control of Pollution Act 1974 (noise minimisation) is applicable, regard shall also be had to guidance given in it.

(10) A local authority shall not without the consent of the Secretary of State institute summary proceedings under this Part in respect of a nuisance falling within paragraph (b), (d), (e) **[** , (fb) **]** [2] or (g) and in relation to Scotland, paragraph (ga), of subsection (1) above if proceedings in respect thereof might be instituted under Part I or under regulations under section 2 of the Pollution Prevention and Control Act 1999.

(11) The area of a local authority which includes part of the seashore shall also include for the purposes of this Part the territorial sea lying seawards from that part of the shore; and subject to subsection (12) and , in relation to England and Wales,section 81A(9) below, this Part shall have effect, in relation to any area included in the area of a local authority by virtue of this subsection—

(a) as if references to premises and the occupier of premises included respectively a vessel and the master of a vessel; and

(b) with such other modifications, if any, as are prescribed in regulations made by the Secretary of State.

(12) A vessel powered by steam reciprocating machinery is not a vessel to which this Part of this Act applies.

] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.101 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

[2] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.102 (January 31, 2007 as SI 2007/2797)

Amendments Pending

Pt III s. 79(10): words repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed: commencement order)

Pt III s. 79(3)(i): words inserted by Environment Act 2021 c. 30, Sch. 12(3) para. 25 (date to be appointed)

Commencement

Pt III s. 79: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt III s. 79(1)-(11)(b): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Wales | Scotland

Law In Force

England

80.— Summary proceedings for statutory nuisances.

(1) **[** Subject to subsection (2A) where **]** [1] a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements—

(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;

(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

(2) **[** Subject to section 80A(1) below, the abatement notice **]** [2] shall be served—

(a) except in a case falling within paragraph (b) or (c) below, on the person responsible for the nuisance;

(b) where the nuisance arises from any defect of a structural character, on the owner of the premises;

(c) where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.

[(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall–

(a) serve an abatement notice in respect of the nuisance in accordance with subsections (1) and (2) above; or

(b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.

(2B) If a local authority has taken steps under subsection (2A)(b) above and either of the conditions in subsection (2C) below is satisfied, the authority shall serve an abatement notice in respect of the nuisance.

(2C) The conditions are–

(a) that the authority is satisfied at any time before the end of the relevant period that the steps taken will not be successful in persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence;

(b) that the authority is satisfied at the end of the relevant period that the nuisance continues to exist, or continues to be likely to occur or recur, in the area of the authority.

(2D) The relevant period is the period of seven days starting with the day on which the authority was first satisfied that the nuisance existed, or was likely to occur or recur.

(2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance. **]** [1]

(3) **[** A person served with an abatement notice **]** [3] may appeal against the notice to a magistrates' court **[** or in Scotland, the sheriff **]** [4] within the period of twenty-one days beginning with the date on which he was served with the notice.

(4) If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.

(5) Except in a case falling within subsection (6) below, a person who commits an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to **[** one-tenth of the greater of £5,000 or level 4 on the standard scale **]** [5] for each day on which the offence continues after the conviction.

(6) A person who commits an offence under subsection (4) above on industrial, trade or business premises shall be liable on summary conviction to **[** a fine **]** [6] .

(7) Subject to subsection (8) below, in any proceedings for an offence under subsection (4) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

(8) The defence under subsection (7) above is not available—

(a) in the case of a nuisance falling within **[** paragraph (a), (d), (e), (f), (fa) or (g) of section 79(1) **]** [7] above except where the nuisance arises on industrial, trade or business premises;

[(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where–

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;

] [7]

[(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes; **]** [8]

(b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney; and

(c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above.

[(8A) For the purposes of subsection (8)(aza) a relevant sports facility is an area, with or without structures, that is used when participating in a relevant sport, but does not include such an area comprised in domestic premises.

(8B) For the purposes of subsection (8A) “relevant sport” means a sport that is designated for those purposes by order made by the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales.

A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.

(8C) In subsection (8A) “domestic premises” means–

(a) premises used wholly or mainly as a private dwelling, or

(b) land or other premises belonging to, or enjoyed with, premises so used.

] [7]

(9) In proceedings for an offence under subsection (4) above in respect of a statutory nuisance falling within **[** paragraph (g) or (ga) of section 79(1) **]**[9] above where the offence consists in contravening requirements imposed by virtue of subsection (1)(a) above it shall be a defence to prove—

(a) that the alleged offence was covered by a notice served under section 60 or a consent given under section 61 or 65 of the Control of Pollution Act 1974 (construction sites, etc); or

(b) where the alleged offence was committed at a time when the premises were subject to a notice under section 66 of that Act (noise reduction notice), that the level of noise emitted from the premises at that time was not such as to a constitute a contravention of the notice under that section; or

(c) where the alleged offence was committed at a time when the premises were not subject to a notice under section 66 of that Act, and when a level fixed under section 67 of that Act (new buildings liable to abatement order) applied to the premises, that the level of noise emitted from the premises at that time did not exceed that level.

(10) Paragraphs (b) and (c) of subsection (9) above apply whether or not the relevant notice was subject to appeal at the time when the offence was alleged to have been committed.

Notes

1 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 7 c.2 s.86 (April 6, 2006 as SI 2006/795)

2 Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.3(2) (January 5, 1994)

3 Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.3(3) (January 5, 1994)

4 Words inserted by Environment Act 1995 c. 25 Sch.17 para.3 (April 1, 1996)

5 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(4) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

6 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(5) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

7 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.103 (April 6, 2006 as SI 2006/795)

8 Added by Noise and Statutory Nuisance Act 1993 c. 40 s.3(4) (January 5, 1994)

9 Words inserted by Noise and Statutory Nuisance Act 1993 c. 40 s.3(5) (January 5, 1994)

Wales

[80.— Summary proceedings for statutory nuisances.

(1) **[** Subject to subsection (2A) where **]**[2] a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements—

(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;

(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

(2) Subject to section 80A(1) below, the abatement notice shall be served—

(a) except in a case falling within paragraph (b) or (c) below, on the person responsible for the nuisance;

(b) where the nuisance arises from any defect of a structural character, on the owner of the premises;

(c) where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.

[(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall–

(a) serve an abatement notice in respect of the nuisance in accordance with subsections (1) and (2) above; or

(b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.

(2B) If a local authority has taken steps under subsection (2A)(b) above and either of the conditions in subsection (2C) below is satisfied, the authority shall serve an abatement notice in respect of the nuisance.

(2C) The conditions are–

(a) that the authority is satisfied at any time before the end of the relevant period that the steps taken will not be successful in persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence;

(b) that the authority is satisfied at the end of the relevant period that the nuisance continues to exist, or continues to be likely to occur or recur, in the area of the authority.

(2D) The relevant period is the period of seven days starting with the day on which the authority was first satisfied that the nuisance existed, or was likely to occur or recur.

(2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance. **]** [2]

(3) A person served with an abatement notice may appeal against the notice to a magistrates' court or in Scotland, the sheriff within the period of twenty-one days beginning with the date on which he was served with the notice.

(4) If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.

(5) Except in a case falling within subsection (6) below, a person who commits an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to **[** one-tenth of the greater of £5,000 or level 4 on the standard scale **]** [3] for each day on which the offence continues after the conviction.

(6) A person who commits an offence under subsection (4) above on industrial, trade or business premises shall be liable on summary conviction to **[** a fine **]** [4] .

(7) Subject to subsection (8) below, in any proceedings for an offence under subsection (4) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

(8) The defence under subsection (7) above is not available—

(a) in the case of a nuisance falling within paragraph (a), (d), (e), (f), (fa) or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;

(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where–

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;

(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;

(b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney; and

(c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above.

(8A) For the purposes of subsection (8)(aza) a relevant sports facility is an area, with or without structures, that is used when participating in a relevant sport, but does not include such an area comprised in domestic premises.

(8B) For the purposes of subsection (8A) “relevant sport” means a sport that is designated for those purposes by order made by the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales.
A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.

(8C) In subsection (8A) “domestic premises” means–

(a) premises used wholly or mainly as a private dwelling, or

(b) land or other premises belonging to, or enjoyed with, premises so used.

(9) In proceedings for an offence under subsection (4) above in respect of a statutory nuisance falling within paragraph (g) or (ga) of section 79(1) above where the offence consists in contravening requirements imposed by virtue of subsection (1)(a) above it shall be a defence to prove—

(a) that the alleged offence was covered by a notice served under section 60 or a consent given under section 61 or 65 of the Control of Pollution Act 1974 (construction sites, etc); or

(b) where the alleged offence was committed at a time when the premises were subject to a notice under section 66 of that Act (noise reduction notice), that the level of noise emitted from the premises at that time was not such as to a constitute a contravention of the notice under that section; or

(c) where the alleged offence was committed at a time when the premises were not subject to a notice under section 66 of that Act, and when a level fixed under section 67 of that Act (new buildings liable to abatement order) applied to the premises, that the level of noise emitted from the premises at that time did not exceed that level.

(10) Paragraphs (b) and (c) of subsection (9) above apply whether or not the relevant notice was subject to appeal at the time when the offence was alleged to have been committed.
] [1]

Notes

1 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.103 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

2 Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 7 c.2 s.86 (October 27, 2006 as SI 2006/2797)

3 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(4) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

4 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(5) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

Scotland

[80.— Summary proceedings for statutory nuisances.

(1) Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements—

(a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;

(b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of those purposes,

and the notice shall specify the time or times within which the requirements of the notice are to be complied with.

(2) Subject to section 80A(1) below, the abatement notice shall be served—

(a) except in a case falling within paragraph (b) or (c) below, on the person responsible for the nuisance;

(b) where the nuisance arises from any defect of a structural character, on the owner of the premises;

(c) where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.

(3) A person served with an abatement notice may appeal against the notice to a magistrates' court or in Scotland, the sheriff within the period of twenty-one days beginning with the date on which he was served with the notice.

(4) If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with any requirement or prohibition imposed by the notice, he shall be guilty of an offence.

[(4A) Where a local authority have reason to believe that a person has committed an offence under subsection (4) above, the local authority may give that person a notice (a "fixed penalty notice") in accordance with section 80ZA offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. **]** [2]

(5) Except in a case falling within subsection (6) below, a person who commits an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the

standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction.

(6) A person who commits an offence under subsection (4) above on industrial, trade or business premises shall be liable on summary conviction to a fine not exceeding £40,000.

(7) Subject to subsection (8) below, in any proceedings for an offence under subsection (4) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

(8) The defence under subsection (7) above is not available—

(a) in the case of a nuisance falling within paragraph (a), (d), (e), (f) or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;

(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;

(b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney; and

(c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above.

(9) In proceedings for an offence under subsection (4) above in respect of a statutory nuisance falling within paragraph (g) or (ga) of section 79(1) above where the offence consists in contravening requirements imposed by virtue of subsection (1)(a) above it shall be a defence to prove—

(a) that the alleged offence was covered by a notice served under section 60 or a consent given under **[** section 61 of the Control of Pollution Act 1974 **]** [3] (construction sites, etc) **[.]** [4]

(b) **[…]**[4]

(c) **[…]**[5]

(10) **[…]**[6]

] [1]

Notes

1 Figure substituted by Antisocial Behaviour etc. (Scotland) Act 2004 asp 8 (Scottish Act) Sch.2(1) para.4(4) (October 28, 2004)

2 Added by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.113(2) (January 26, 2009)

3 Words repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(b)(i) (June 30, 2014)

4 Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(b)(ii) (June 30, 2014)

5 Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(b)(iii) (June 30, 2014)

6 Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(b)(iv) (June 30, 2014)

Commencement

Pt III s. 80: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt III s. 80(1)-(10): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

[NOTE: not yet in force otherwise.]

Scotland

[80ZA Fixed penalty notice: supplemental

(1) This section applies to a fixed penalty notice given under section 80(4A).

(2) A fixed penalty notice must give reasonable particulars of the circumstances alleged to constitute the offence.

(3) A fixed penalty notice must also state—

(a) the amount of the fixed penalty;

(b) the period within which it may be paid;

(c) the—

(i) person to whom; and

(ii) address at which,

payment may be made;

(d) the method or methods by which payment may be made;

(e) the consequences of not making a payment within the period for payment.

(4) The amount of the fixed penalty under section 80(4A) is—

(a) in the case of a nuisance relating to industrial, trade or business premises, £400;

(b) in any other case, £150.

(5) The period for payment of the fixed penalty is 14 days beginning with the day after the day on which the notice is given.

(6) The local authority may extend the period for paying the fixed penalty in any particular case if they consider it appropriate to do so by sending notice to the person to whom the fixed penalty notice was given.

(7) No proceedings for an offence under section 80(4) may be commenced before the end of the period for payment of the fixed penalty.

(8) In proceedings for an offence under section 80(4), a certificate which—

(a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the local authority; and

(b) states that payment of the amount specified in the fixed penalty notice was or was not received by the expiry of the period within which that fixed penalty may be paid,

is sufficient evidence of the facts stated.

(9) Where proceedings for an offence in respect of which a fixed penalty notice has been given are commenced, the notice is to be treated as withdrawn.

(10) Any sum received by a local authority under section 80(4A) accrues to that authority.

(11) The Scottish Ministers may, by regulations—

(a) provide that fixed penalty notices may not be given in such circumstances as may be prescribed;

(b) provide for the form of a fixed penalty notice;

(c) provide for the method or methods by which fixed penalties may be paid;

(d) modify subsection (4)(a) or (b) above so as to substitute a different amount (not exceeding level 2 on the standard scale) for the amount for the time being specified there;

(e) provide for the amount of the fixed penalty to be different in different cases or descriptions of case;

(f) modify subsection (5) above so as to substitute a different period for the period for the time being specified there;

(g) provide for the keeping of accounts, and the preparation and publication of statements of account relating to fixed penalties under section 80(4A).

(12) Before making regulations under subsection (11) above, the Scottish Ministers must consult, in so far as it is reasonably practicable to do so, the persons mentioned in subsection (13) below.

(13) Those persons are—

(a) such associations of local authorities; and

(b) such other persons,

as the Scottish Ministers consider appropriate.

] [1]

Notes

[1] Added by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.113(3) (January 26, 2009)

Extent

Pt III s. 80ZA(1)-(13)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[80A.— Abatement notice in respect of noise in street.

(1) In the case of a statutory nuisance within section 79(1)(ga) above that—

(a) has not yet occurred, or

(b) arises from noise emitted from or caused by an unattended vehicle or unattended machinery or equipment,

the abatement notice shall be served in accordance with subsection (2) below.

(2) The notice shall be served—

(a) where the person responsible for the vehicle, machinery or equipment can be found, on that person;

(b) where that person cannot be found or where the local authority determines that this paragraph should apply, by fixing the notice to the vehicle, machinery or equipment.

(3) Where—

(a) an abatement notice is served in accordance with subsection (2)(b) above by virtue of a determination of the local authority, and

(b) the person responsible for the vehicle, machinery or equipment can be found and served with a copy of the notice within an hour of the notice being fixed to the vehicle, machinery or equipment,

a copy of the notice shall be served on that person accordingly.

(4) Where an abatement notice is served in accordance with subsection (2)(b) above by virtue of a determination of the local authority, the notice shall state that, if a copy of the notice is subsequently served under subsection (3) above, the time specified in the notice as the time within which its requirements are to be complied with is extended by such further period as is specified in the notice.

(5) Where an abatement notice is served in accordance with subsection (2)(b) above, the person responsible for the vehicle, machinery or equipment may appeal against the notice under section 80(3) above as if he had been served with the notice on the date on which it was fixed to the vehicle, machinery or equipment.

(6) Section 80(4) above shall apply in relation to a person on whom a copy of an abatement notice is served under subsection (3) above as if the copy were the notice itself.

(7) A person who removes or interferes with a notice fixed to a vehicle, machinery or equipment in accordance with subsection (2)(b) above shall be guilty of an offence, unless he is the person responsible for the vehicle, machinery or equipment or he does so with the authority of that person.

(8) A person who commits an offence under subsection (7) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

] [1]

Notes

[1] Added by Noise and Statutory Nuisance Act 1993 c. 40 s.3(6) (January 5, 1994)

Extent

Pt III s. 80A(2)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

81.— Supplementary provisions.

(1) **[** Subject to subsection (1A) below, where **]** [1] more than one person is responsible for a statutory nuisance section 80 above shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance.

[(1A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), section 80(2)(a) above shall apply with the substitution of "any one of the persons" for "the person".

(1B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, section 80A above shall apply with the substitution—

(a) in subsection (2)(a), of "any of the persons" for "the person" and of "one such person" for "that person",

(b) in subsection (2)(b), of "such a person" for "that person",

(c) in subsection (3), of "any of the persons" for "the person" and of "one such person" for "that person",

(d) in subsection (5), of "any person" for "the person", and

(e) in subsection (7), of "a person" for "the person" and of "such a person" for "that person".

] [2]

(2) Where a statutory nuisance which exists or has occurred within the area of a local authority, or which has affected any part of that area, appears to the local authority to be wholly or partly caused by some act or default committed or taking place outside the area, the local authority may act under section 80 above as if the act or default were wholly within that area, except that any appeal shall be heard by a magistrates' court **[** or in Scotland, the sheriff **]** [3] having jurisdiction where the act or default is alleged to have taken place.

(3) Where an abatement notice has not been complied with the local authority may, whether or not they take proceedings for an offence **[** or, in Scotland, whether or not proceedings have been taken for an offence, **]** [4] under section 80(4) above, abate the nuisance and do whatever may be necessary in execution of the notice.

(4) Any expenses reasonably incurred by a local authority in abating, or preventing the recurrence of, a statutory nuisance under subsection (3) above may be recovered by them from the person by whose act or default the nuisance was caused and, if that person is the owner of the premises, from any person who is for the time being the owner thereof; and the court **[** or sheriff **]** [5] may apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court consider **[** or sheriff considers **]** [5] fair and reasonable.

(5) If a local authority is of opinion that proceedings for an offence under section 80(4) above would afford an inadequate remedy in the case of any statutory nuisance, they may, subject to subsection (6) below, take proceedings in the High Court **[** or, in Scotland, in any court of competent jurisdiction, **]** [6] for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the local authority have suffered no damage from the nuisance.

(6) In any proceedings under subsection (5) above in respect of a nuisance falling within **[** paragraph (g) or (ga) of section 79(1) **]** [7] above, it shall be a defence to prove that the noise was authorised

by a notice under section 60 or a consent under section 61 (construction sites) of the Control of Pollution Act 1974.

(7) The further supplementary provisions in Schedule 3 to this Act shall have effect.

Notes

1 Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.4(2) (January 5, 1994)
2 Added by Noise and Statutory Nuisance Act 1993 c. 40 s.4(3) (January 5, 1994)
3 Words inserted by Environment Act 1995 c. 25 Sch.17 para.4(a) (April 1, 1996)
4 Words inserted by Environment Act 1995 c. 25 Sch.17 para.4(b) (April 1, 1996)
5 Words inserted by Environment Act 1995 c. 25 Sch.17 para.4(c) (April 1, 1996)
6 Words inserted by Environment Act 1995 c. 25 Sch.17 para.4(d) (April 1, 1996)
7 Words added by Noise and Statutory Nuisance Act 1993 c. 40 s.4(4) (January 5, 1994)

Scotland

[81.— Supplementary provisions.

(1) Subject to subsection (1A) below, where more than one person is responsible for a statutory nuisance section 80 above shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance.

(1A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to such a nuisance), section 80(2)(a) above shall apply with the substitution of “any one of the persons” for “the person”.

(1B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, section 80A above shall apply with the substitution—

(a) in subsection (2)(a), of “any of the persons” for “the person” and of “one such person” for “that person”,
(b) in subsection (2)(b), of “such a person” for “that person”,
(c) in subsection (3), of “any of the persons” for “the person” and of “one such person” for “that person”,
(d) in subsection (5), of “any person” for “the person”, and
(e) in subsection (7), of “a person” for “the person” and of “such a person” for “that person”.

(2) Where a statutory nuisance which exists or has occurred within the area of a local authority, or which has affected any part of that area, appears to the local authority to be wholly or partly caused by some act or default committed or taking place outside the area, the local authority may act under section 80 above as if the act or default were wholly within that area, except that any appeal shall be heard by a magistrates' court or in Scotland, the sheriff having jurisdiction where the act or default is alleged to have taken place.

[(3) Where an abatement notice has not been complied with, the local authority may, whether or not—

(a) proceedings have been taken for an offence under section 80(4); or

(b) a fixed penalty notice has been given under section 80(4A) in respect of that offence (regardless of whether the fixed penalty notice is accepted),

abate the nuisance and do whatever may be necessary in execution of the abatement notice.
] [2]

(3A) The power under subsection (3) above shall, where the matter to be abated is a statutory nuisance by virtue of section 79(1)(g) above, include power to seize and remove any equipment which it appears to the authority is being or has been used in the emission of the noise in question.

(3B) A person who wilfully obstructs any person exercising, by virtue of subsection (3A) above, the power conferred by subsection (3) above shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3C) Schedule 1 to the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) shall have effect in relation to equipment seized by virtue of subsection (3A) above as it does in relation to equipment seized under section 47(2) of that Act, subject to the following modifications–

(a) in paragraph 1(a), "noise offence" means an offence under section 80(4) above in respect of a statutory nuisance falling within section 79(1)(g) above; and

(b) in paragraph 1(b), "seized equipment" means equipment seized by virtue of subsection (3A) above.

(4) Any expenses reasonably incurred by a local authority in abating, or preventing the recurrence of, a statutory nuisance under subsection (3) above may be recovered by them from the person by whose act or default the nuisance was caused and, if that person is the owner of the premises, from any person who is for the time being the owner thereof; and the court or sheriff may apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court consider or sheriff considers fair and reasonable.

(5) If a local authority is of opinion that proceedings for an offence under section 80(4) above would afford an inadequate remedy in the case of any statutory nuisance, they may, subject to subsection (6) below, take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction, for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the local authority have suffered no damage from the nuisance.

(6) In any proceedings under subsection (5) above in respect of a nuisance falling within paragraph (g) or (ga) of section 79(1) above, it shall be a defence to prove that the noise was authorised by a notice under section 60 or a consent under section 61 (construction sites) of the Control of Pollution Act 1974.

(7) The further supplementary provisions in Schedule 3 to this Act shall have effect.
] [1]

Notes

[1] Added by Antisocial Behaviour etc. (Scotland) Act 2004 asp 8 (Scottish Act) Sch.4 para.3 (December 1, 2004)

[2] Substituted by Public Health etc. (Scotland) Act 2008 asp 5 (Scottish Act) Pt 9 s.113(4) (January 26, 2009)

Commencement

Pt III s. 81: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt III s. 81(1)-(7): England, Wales, Scotland

Law In Force

[81A.— Expenses recoverable from owner to be a charge on premises.

(1) Where any expenses are recoverable under section 81(4) above from a person who is the owner of the premises there mentioned and the local authority serves a notice on him under this section—

(a) the expenses shall carry interest, at such reasonable rate as the local authority may determine, from the date of service of the notice until the whole amount is paid, and

(b) subject to the following provisions of this section, the expenses and accrued interest shall be a charge on the premises.

(2) A notice served under this section shall—

(a) specify the amount of the expenses that the local authority claims is recoverable,

(b) state the effect of subsection (1) above and the rate of interest determined by the local authority under that subsection, and

(c) state the effect of subsections (4) to (6) below.

(3) On the date on which a local authority serves a notice on a person under this section the authority shall also serve a copy of the notice on every other person who, to the knowledge of the authority, has an interest in the premises capable of being affected by the charge.

(4) Subject to any order under subsection (7)(b) or (c) below, the amount of any expenses specified in a notice under this section and the accrued interest shall be a charge on the premises—

(a) as from the end of the period of twenty-one days beginning with the date of service of the notice, or

(b) where an appeal is brought under subsection (6) below, as from the final determination of the appeal,

until the expenses and interest are recovered.

(5) For the purposes of subsection (4) above, the withdrawal of an appeal has the same effect as a final determination of the appeal.

(6) A person served with a notice or copy of a notice under this section may appeal against the notice to the county court within the period of twenty-one days beginning with the date of service.

(7) On such an appeal the court may—

(a) confirm the notice without modification,

(b) order that the notice is to have effect with the substitution of a different amount for the amount originally specified in it, or

(c) order that the notice is to be of no effect.

(8) A local authority shall, for the purpose of enforcing a charge under this section, have all the same powers and remedies under the Law of Property Act 1925, and otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(9) In this section—

"owner", in relation to any premises, means a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let, and

"premises" does not include a vessel.

[(10) This section does not apply to Scotland. **]** [2]
] [1]

Notes

[1] Added by Noise and Statutory Nuisance Act 1993 c. 40 s.10(2) (January 5, 1994)

[2] Words inserted by Environment Act 1995 c. 25 Sch.17 para.5 (April 1, 1996)

Extent

Pt III s. 81A(2)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[81B.— Payment of expenses by instalments.

(1) Where any expenses are a charge on premises under section 81A above, the local authority may by order declare the expenses to be payable with interest by instalments within the specified period, until the whole amount is paid.

(2) In subsection (1) above—

"interest" means interest at the rate determined by the authority under section 81A(1) above, and

"the specified period" means such period of thirty years or less from the date of service of the notice under section 81A above as is specified in the order.

(3) Subject to subsection (5) below, the instalments and interest, or any part of them, may be recovered from the owner or occupier for the time being of the premises.

(4) Any sums recovered from an occupier may be deducted by him from the rent of the premises.

(5) An occupier shall not be required to pay at any one time any sum greater than the aggregate of—

(a) the amount that was due from him on account of rent at the date on which he was served with a demand from the local authority together with a notice requiring him not to pay rent to his landlord without deducting the sum demanded, and

(b) the amount that has become due from him on account of rent since that date.

[(6) This section does not apply to Scotland. **]** [2]
] [1]

Notes

[1] Added by Noise and Statutory Nuisance Act 1993 c. 40 s.10(2) (January 5, 1994)

[2] Words inserted by Environment Act 1995 c. 25 Sch.17 para.5 (April 1, 1996)

Extent

Pt III s. 81B(1)-(5)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Law In Force

Scotland

82.— Summary proceedings by persons aggrieved by statutory nuisances.

(1) A magistrates' court may act under this section on a complaint [or, in Scotland, the sheriff may act under this section on a summary application,] [1] made by any person on the ground that he is aggrieved by the existence of a statutory nuisance.

(2) If the magistrates' court [or, in Scotland, the sheriff] [2] is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises [or, in the case of a nuisance within section 79(1)(ga) above, in the same street] [3] [or, in Scotland, road] [4] , the court [or the sheriff] [5] shall make an order for either or both of the following purposes—

(a) requiring the defendant [or, in Scotland, defender] [6] to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

(b) prohibiting a recurrence of the nuisance, and requiring the defendant [or defender] [7] , within a time specified in the order, to execute any works necessary to prevent the recurrence;

and [, in England and Wales,] [8] may also impose on the defendant a fine not exceeding level 5 on the standard scale.

(3) If the magistrates' court [or the sheriff] [9] is satisfied that the alleged nuisance exists and is such as, in the opinion of the court [or of the sheriff] [9] , to render premises unfit for human habitation, an order under subsection (2) above may prohibit the use of the premises for human habitation until the premises are, to the satisfaction of the court [or of the sheriff] [9] , rendered fit for that purpose.

(4) Proceedings for an order under subsection (2) above shall be brought—

(a) except in a case falling within [paragraph (b), (c) or (d) below] [10] , against the person responsible for the nuisance;

(b) where the nuisance arises from any defect of a structural character, against the owner of the premises;

(c) where the person responsible for the nuisance cannot be found, against the owner or occupier of the premises.

[(d) in the case of a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment, against the person responsible for the vehicle, machinery or equipment.] [11]

(5) **[** Subject to subsection (5A) below, where **]** [12] more than one person is responsible for a statutory nuisance, subsections (1) to (4) above shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance.

[(5A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to a nuisance), subsection (4)(a) above shall apply with the substitution of "each person responsible for the nuisance who can be found" for "the person responsible for the nuisance".

(5B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, subsection (4)(d) above shall apply with the substitution of "any person" for "the person". **]** [13]

(6) Before instituting proceedings for an order under subsection (2) above against any person, the person aggrieved by the nuisance shall give to that person such notice in writing of his intention to bring the proceedings as is applicable to proceedings in respect of a nuisance of that description and the notice shall specify the matter complained of.

(7) The notice of the bringing of proceedings in respect of a statutory nuisance required by subsection (6) above which is applicable is—

(a) in the case of a nuisance falling within **[** paragraph (g) or (ga) of section 79(1) **]** [14] above, not less than three days' notice; and

(b) in the case of a nuisance of any other description, not less than twenty-one days' notice;

but the Secretary of State may, by order, provide that this subsection shall have effect as if such period as is specified in the order were the minimum period of notice applicable to any description of statutory nuisance specified in the order.

(8) A person who, without reasonable excuse, contravenes any requirement or prohibition imposed by an order under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction.

(9) Subject to subsection (10) below, in any proceedings for an offence under subsection (8) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

(10) The defence under subsection (9) above is not available—

(a) in the case of a nuisance falling within paragraph (a), (d), (e), (f) or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;

[(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes; **]** [15]

(b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney;

(c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above; and

(d) in the case of a nuisance which is such as to render the premises unfit for human habitation.

(11) If a person is convicted of an offence under subsection (8) above, a magistrates' court **[** or the sheriff **]** [16] may, after giving the local authority in whose area the nuisance has occurred an

opportunity of being heard, direct the authority to do anything which the person convicted was required to do by the order to which the conviction relates.

(12) Where on the hearing of proceedings for an order under subsection (2) above it is proved that the alleged nuisance existed at the date of the making of the complaint [or summary application] [17] , then, whether or not at the date of the hearing it still exists or is likely to recur, the court [or the sheriff] [17] shall order the [defendant or defender (or defendants or defenders] [18] in such proportions as appears fair and reasonable) to pay to the person bringing the proceedings such amount as the court [or the sheriff] [17] considers reasonably sufficient to compensate him for any expenses properly incurred by him in the proceedings.

(13) If it appears to the magistrates' court [or to the sheriff] [19] that neither the person responsible for the nuisance nor the owner or occupier of the premises [or (as the case may be) the person responsible for the vehicle, machinery or equipment] [20] can be found the court [or the sheriff] [19] may, after giving the local authority in whose area the nuisance has occurred an opportunity of being heard, direct the authority to do anything which the court [or the sheriff] [19] would have ordered that person to do.

Notes

1 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(a) (April 1, 1996)
2 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(b)(i) (April 1, 1996)
3 Words inserted by Noise and Statutory Nuisance Act 1993 c. 40 s.5(2) (January 5, 1994)
4 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(b)(ii) (April 1, 1996)
5 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(b)(iii) (April 1, 1996)
6 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(b)(iv) (April 1, 1996)
7 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(b)(v) (April 1, 1996)
8 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(b)(vi) (April 1, 1996)
9 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(c) (April 1, 1996)
10 Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.5(3)(a) (January 5, 1994)
11 Added by Noise and Statutory Nuisance Act 1993 c. 40 s.5(3)(b) (January 5, 1994)
12 Words substituted by Noise and Statutory Nuisance Act 1993 c. 40 s.5(4) (January 5, 1994)
13 Added by Noise and Statutory Nuisance Act 1993 c. 40 s.5(5) (January 5, 1994)
14 Words inserted by Noise and Statutory Nuisance Act 1993 c. 40 s.5(6) (January 5, 1994)
15 Added by Noise and Statutory Nuisance Act 1993 c. 40 s.5(7) (January 5, 1994)
16 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(d) (April 1, 1996)
17 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(e) (April 1, 1996)
18 Words substituted by Environment Act 1995 c. 25 Sch.17 para.6(e) (April 1, 1996)
19 Words inserted by Environment Act 1995 c. 25 Sch.17 para.6(f) (April 1, 1996)
20 Words inserted by Noise and Statutory Nuisance Act 1993 c. 40 s.5(8) (January 5, 1994)

Westlaw UK

[82.— Summary proceedings by persons aggrieved by statutory nuisances.

(1) A magistrates' court may act under this section on a complaint or, in Scotland, the sheriff may act under this section on a summary application, made by any person on the ground that he is aggrieved by the existence of a statutory nuisance.

(2) If the magistrates' court or, in Scotland, the sheriff is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises or, in the case of a nuisance within section 79(1)(ga) above, in the same street or, in Scotland, road, the court or the sheriff shall make an order for either or both of the following purposes—

(a) requiring the defendant or, in Scotland, defender to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

(b) prohibiting a recurrence of the nuisance, and requiring the defendant or defender, within a time specified in the order, to execute any works necessary to prevent the recurrence;

and , in England and Wales, may also impose on the defendant a fine not exceeding level 5 on the standard scale.

(3) If the magistrates' court or the sheriff is satisfied that the alleged nuisance exists and is such as, in the opinion of the court or of the sheriff, to render premises unfit for human habitation, an order under subsection (2) above may prohibit the use of the premises for human habitation until the premises are, to the satisfaction of the court or of the sheriff, rendered fit for that purpose.

(4) Proceedings for an order under subsection (2) above shall be brought—

(a) except in a case falling within paragraph (b), (c) or (d) below, against the person responsible for the nuisance;

(b) where the nuisance arises from any defect of a structural character, against the owner of the premises;

(c) where the person responsible for the nuisance cannot be found, against the owner or occupier of the premises.

(d) in the case of a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment, against the person responsible for the vehicle, machinery or equipment.

(5) Subject to subsection (5A) below, where more than one person is responsible for a statutory nuisance, subsections (1) to (4) above shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance.

(5A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to a nuisance), subsection (4)(a) above shall apply with the substitution of “each person responsible for the nuisance who can be found” for “the person responsible for the nuisance”.

(5B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, subsection (4)(d) above shall apply with the substitution of “any person” for “the person”.

(6) Before instituting proceedings for an order under subsection (2) above against any person, the person aggrieved by the nuisance shall give to that person such notice in writing of his intention to bring the proceedings as is applicable to proceedings in respect of a nuisance of that description and the notice shall specify the matter complained of.

(7) The notice of the bringing of proceedings in respect of a statutory nuisance required by subsection (6) above which is applicable is—

(a) in the case of a nuisance falling within paragraph (g) or (ga) of section 79(1) above, not less than three days' notice; and

(b) in the case of a nuisance of any other description, not less than twenty-one days' notice;

but the Secretary of State may, by order, provide that this subsection shall have effect as if such period as is specified in the order were the minimum period of notice applicable to any description of statutory nuisance specified in the order.

(8) A person who, without reasonable excuse, contravenes any requirement or prohibition imposed by an order under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to **[** one-tenth of the greater of £5,000 or level 4 on the standard scale **]** [2] for each day on which the offence continues after the conviction.

(9) Subject to subsection (10) below, in any proceedings for an offence under subsection (8) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

(10) The defence under subsection (9) above is not available—

(a) in the case of a nuisance falling within paragraph (a), (d), (e), (f), (fa) or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;

(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where–

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;

(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;

(b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney;

(c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above; and

(d) in the case of a nuisance which is such as to render the premises unfit for human habitation.

(10A) For the purposes of subsection (10)(aza) “relevant sports facility” has the same meaning as it has for the purposes of section 80(8)(aza).

(11) If a person is convicted of an offence under subsection (8) above, a magistrates' court or the sheriff may, after giving the local authority in whose area the nuisance has occurred an opportunity of being heard, direct the authority to do anything which the person convicted was required to do by the order to which the conviction relates.

(12) Where on the hearing of proceedings for an order under subsection (2) above it is proved that the alleged nuisance existed at the date of the making of the complaint or summary application, then, whether or not at the date of the hearing it still exists or is likely to recur, the court or the sheriff shall order the defendant or defender (or defendants or defenders in such proportions as appears fair and reasonable) to pay to the person bringing the proceedings such amount as the court or the sheriff considers reasonably sufficient to compensate him for any expenses properly incurred by him in the proceedings.

(13) If it appears to the magistrates' court or to the sheriff that neither the person responsible for the nuisance nor the owner or occupier of the premises or (as the case may be) the person responsible for the vehicle, machinery or equipment can be found the court or the sheriff may, after giving the local authority in whose area the nuisance has occurred an opportunity of being heard, direct the authority to do anything which the court or the sheriff would have ordered that person to do.
] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.103 (April 6, 2006 as SI 2006/795)

[2] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(5) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

Wales

[82.— Summary proceedings by persons aggrieved by statutory nuisances.

(1) A magistrates' court may act under this section on a complaint or, in Scotland, the sheriff may act under this section on a summary application, made by any person on the ground that he is aggrieved by the existence of a statutory nuisance.

(2) If the magistrates' court or, in Scotland, the sheriff is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises or, in the case of a nuisance within section 79(1)(ga) above, in the same street or, in Scotland, road, the court or the sheriff shall make an order for either or both of the following purposes—

(a) requiring the defendant or, in Scotland, defender to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;

(b) prohibiting a recurrence of the nuisance, and requiring the defendant or defender, within a time specified in the order, to execute any works necessary to prevent the recurrence;

and , in England and Wales, may also impose on the defendant a fine not exceeding level 5 on the standard scale.

(3) If the magistrates' court or the sheriff is satisfied that the alleged nuisance exists and is such as, in the opinion of the court or of the sheriff, to render premises unfit for human habitation, an order under subsection (2) above may prohibit the use of the premises for human habitation until the premises are, to the satisfaction of the court or of the sheriff, rendered fit for that purpose.

(4) Proceedings for an order under subsection (2) above shall be brought—

(a) except in a case falling within paragraph (b), (c) or (d) below, against the person responsible for the nuisance;

(b) where the nuisance arises from any defect of a structural character, against the owner of the premises;

(c) where the person responsible for the nuisance cannot be found, against the owner or occupier of the premises.

(d) in the case of a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment, against the person responsible for the vehicle, machinery or equipment.

(5) Subject to subsection (5A) below, where more than one person is responsible for a statutory nuisance, subsections (1) to (4) above shall apply to each of those persons whether or not what any one of them is responsible for would by itself amount to a nuisance.

(5A) In relation to a statutory nuisance within section 79(1)(ga) above for which more than one person is responsible (whether or not what any one of those persons is responsible for would by itself amount to a nuisance), subsection (4)(a) above shall apply with the substitution of "each person responsible for the nuisance who can be found" for "the person responsible for the nuisance".

(5B) In relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by an unattended vehicle or unattended machinery or equipment for which more than one person is responsible, subsection (4)(d) above shall apply with the substitution of "any person" for "the person".

(6) Before instituting proceedings for an order under subsection (2) above against any person, the person aggrieved by the nuisance shall give to that person such notice in writing of his intention to bring the proceedings as is applicable to proceedings in respect of a nuisance of that description and the notice shall specify the matter complained of.

(7) The notice of the bringing of proceedings in respect of a statutory nuisance required by subsection (6) above which is applicable is—

(a) in the case of a nuisance falling within paragraph (g) or (ga) of section 79(1) above, not less than three days' notice; and

(b) in the case of a nuisance of any other description, not less than twenty-one days' notice;

but the Secretary of State may, by order, provide that this subsection shall have effect as if such period as is specified in the order were the minimum period of notice applicable to any description of statutory nuisance specified in the order.

(8) A person who, without reasonable excuse, contravenes any requirement or prohibition imposed by an order under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to **[** one-tenth of the greater of £5,000 or level 4 on the standard scale **]** [2] for each day on which the offence continues after the conviction.

(9) Subject to subsection (10) below, in any proceedings for an offence under subsection (8) above in respect of a statutory nuisance it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.

(10) The defence under subsection (9) above is not available—

(a) in the case of a nuisance falling within paragraph (a), (d), (e), (f), (fa) or (g) of section 79(1) above except where the nuisance arises on industrial, trade or business premises;

(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where–

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;

(aa) in the case of a nuisance falling within paragraph (ga) of section 79(1) above except where the noise is emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes;

(b) in the case of a nuisance falling within paragraph (b) of section 79(1) above except where the smoke is emitted from a chimney;

(c) in the case of a nuisance falling within paragraph (c) or (h) of section 79(1) above; and
(d) in the case of a nuisance which is such as to render the premises unfit for human habitation.

(10A) For the purposes of subsection (10)(aza) "relevant sports facility" has the same meaning as it has for the purposes of section 80(8)(aza).

(11) If a person is convicted of an offence under subsection (8) above, a magistrates' court or the sheriff may, after giving the local authority in whose area the nuisance has occurred an opportunity of being heard, direct the authority to do anything which the person convicted was required to do by the order to which the conviction relates.

(12) Where on the hearing of proceedings for an order under subsection (2) above it is proved that the alleged nuisance existed at the date of the making of the complaint or summary application, then, whether or not at the date of the hearing it still exists or is likely to recur, the court or the sheriff shall order the defendant or defender (or defendants or defenders in such proportions as appears fair and reasonable) to pay to the person bringing the proceedings such amount as the court or the sheriff considers reasonably sufficient to compensate him for any expenses properly incurred by him in the proceedings.

(13) If it appears to the magistrates' court or to the sheriff that neither the person responsible for the nuisance nor the owner or occupier of the premises or (as the case may be) the person responsible for the vehicle, machinery or equipment can be found the court or the sheriff may, after giving the local authority in whose area the nuisance has occurred an opportunity of being heard, direct the authority to do anything which the court or the sheriff would have ordered that person to do.
] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.103 (March 16, 2006 as SI 2006/768 and SI 2007/2797)

[2] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(5) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

Commencement

Pt III s. 82: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt III s. 82(1)-(13): England, Wales, Scotland

Statutory nuisances: Scotland

Repealed

83.— […] [1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Termination of existing controls over offensive trades and businesses

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed

England and Wales

84.— Termination of Public Health Act controls over offensive trades etc.

(1) Where a person carries on, in the area or part of the area of any local authority—

(a) in England or Wales, a trade which—

(i) is an offensive trade within the meaning of section 107 of the Public Health Act 1936 in that area or part of that area, and

(ii) constitutes a prescribed process designated for local control for the carrying on of which an authorisation is required under section 6 of this Act; or

(b) in Scotland, a business which—

(i) is mentioned in section 32(1) of the Public Health (Scotland) Act 1897 (or is an offensive business by virtue of that section) in that area or part of that area; and

(ii) constitutes a prescribed process designated for local control for the carrying on of which an authorisation is required under the said section 6,

subsection (2) below shall have effect in relation to that trade or business as from the date on which an authorisation is granted under section 6 of this Act or, if that person has not applied for such an authorisation within the period allowed under section 2(1) above for making applications under that section, as from the end of that period.

(2) Where this subsection applies in relation to the trade or business carried on by any person—

(a) nothing in section 107 of the Public Health Act 1936 or in section 32 of the Public Health (Scotland) Act 1897 shall apply in relation to it, and

(b) no byelaws or further byelaws made under section 108(2) of the said Act of 1936, or under subsection (2) of the said section 32, with respect to a trade or business of that description shall apply in relation to it;

but without prejudice to the continuance of, and imposition of any penalty in, any proceedings under the said section 107 or the said section 32 which were instituted before the date as from which this subsection has effect in relation to the trade or business.

(3) Subsection (2)(b) above shall apply in relation to the trade of fish frying as it applies in relation to an offensive trade.

(4) When the Secretary of State considers it expedient to do so, having regard to the operation of Part I and the preceding provisions of this Part of this Act in relation to offensive trades or businesses, he may by order repeal—

(a) sections 107 and 108 of the Public Health Act 1936; and

(b) section 32 of the Public Health (Scotland) Act 1897;

and different days may be so appointed in relation to trades or businesses which constitute prescribed processes and those which do not.

(5) In this section—

"prescribed process" has the same meaning as in Part I of this Act; and

"offensive trade" or "trade" has the same meaning as in section 107 of the Public Health Act 1936.

Scotland

[…][1]

Notes

[1] Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(c) (June 30, 2014)

Commencement

Pt III s. 84: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt III s. 84(1)-(5) definition of "offensive trade": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Application to gases of certain Clean Air Act provisions

Repealed

85. […][1]

Notes

[1] Repealed by Clean Air Act 1993 c. 11 Sch.6 para.1 (August 27, 1993: as 1993 c.11)

PART IV

LITTER ETC.

Provisions relating to litter

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

86.— Preliminary.

(1) The following provisions have effect for the purposes of this Part.

(2) In England and Wales the following are "principal litter authorities"—

(a) a county council,

[(aa) a county borough council, **]** [1]

(b) a district council,

(c) a London borough council,

(d) the Common Council of the City of London, and

(e) the Council of the Isles of Scilly;

but the Secretary of State may, by order, designate other descriptions of local authorities as litter authorities for the purposes of this Part; and any such authority shall also be a principal litter authority.

(3) In Scotland the following are "principal litter authorities"—

[(a) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 **]** [2]

(c) a joint board.

(4) Subject to subsection (8) below, land is "relevant land" of a principal litter authority if, not being relevant land falling within subsection (7) below, it is open to the air and is land (but not a highway or in Scotland a public road) which is under the direct control of such an authority to which the public are entitled or permitted to have access with or without payment.

(5) Land is "Crown land" if it is land—

(a) occupied by the Crown Estate Commissioners as part of the Crown Estate,

(b) occupied by or for the purposes of a government department or for naval, military or air force purposes, or

(c) occupied or managed by any body acting on behalf of the Crown;

is “relevant Crown land” if it is Crown land which is open to the air and is land (but not a highway or in Scotland a public road) to which the public are entitled or permitted to have access with or without payment; and “the appropriate Crown authority” for any Crown land is the Crown Estate Commissioners, the Minister in charge of the government department or the body which occupies or manages the land on the Crown's behalf, as the case may be.

(6) Subject to subsection (8) below, land is “relevant land” of a designated statutory undertaker if it is land which is under the direct control of any statutory undertaker or statutory undertaker of any description which may be designated by the Secretary of State, by order, for the purposes of this Part, being land to which the public are entitled or permitted to have access with or without payment or, in such cases as may be prescribed in the designation order, land in relation to which the public have no such right or permission.

(7) Subject to subsection (8) below, land is “relevant land” of a designated educational institution if it is open to the air and is land which is under the direct control of the governing body of or, in Scotland, of such body or of the education authority responsible for the management of, any educational institution or educational institution of any description which may be designated by the Secretary of State, by order, for the purposes of this Part.

(8) The Secretary of State may, by order, designate descriptions of land which are not to be treated as relevant Crown land or as relevant land of principal litter authorities, of designated statutory undertakers or of designated educational institutions or of any description of any of them.

(9) Every highway maintainable at the public expense other than a trunk road which is a special road is a “relevant highway” and the local authority which is, for the purposes of this Part, “responsible” for so much of it as lies within its area is, subject to any order under subsection (11) below—

(a) in Greater London, the council of the London borough or the Common Council of the City of London;

(b) **[** in England **]** [3] outside Greater London, the council of the district; and

[(bb) in Wales, the council of the county or county borough; **]** [4]

(c) the Council of the Isles of Scilly.

(10) In Scotland, every public road other than a trunk road which is a special road is a “relevant road” and the local authority which is, for the purposes of this Part, “responsible” for so much of it as lies within **[** their **]** [5] area is, subject to any order under subsection (11) below, **[** the council constituted under section 2 of the Local Government etc (Scotland) Act 1994. **]** [6]

(11) The Secretary of State may, by order, as respects relevant highways or relevant roads, relevant highways or relevant roads of any class or any part of a relevant highway or relevant road specified in the order, transfer the responsibility for the discharge of the duties imposed by section 89 below from the local authority to the highway or roads authority; but he shall not make an order under this subsection unless—

(a) (except where he is the highway or roads authority) he is requested to do so by the highway or roads authority;

(b) he consults the local authority; and

(c) it appears to him to be necessary or expedient to do so in order to prevent or minimise interference with the passage or with the safety of traffic along the highway or, in Scotland, road in question;

and where, by an order under this subsection, responsibility for the discharge of those duties is transferred, the authority to which the transfer is made is, for the purposes of this Part, "responsible" for the highway, road or part specified in the order.

(12) Land is "relevant land within a litter control area of a local authority" if it is land included in an area designated by the local authority under section 90 below to which the public are entitled or permitted to have access with or without payment.

(13) A place on land shall be treated as "open to the air" notwithstanding that it is covered if it is open to the air on at least one side.

(14) The Secretary of State may, by order, apply the provisions of this Part which apply to refuse to any description of animal droppings in all or any prescribed circumstances subject to such modifications as appear to him to be necessary.

(15) Any power under this section may be exercised differently as respects different areas, different descriptions of land or for different circumstances.

Notes

1 Added by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(6) (April 1, 1996)

2 S.86(3)(a) substituted for s.86(3)(a) and (b) by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(10)(a) (April 1, 1996)

3 Words inserted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(7) (April 1, 1996)

4 Added by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(7) (April 1, 1996)

5 Words substituted by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(10)(b)(i) (April 1, 1996)

6 Words substituted by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(10)(b)(ii) (April 1, 1996)

Wales

[86.— Preliminary.

(1) The following provisions have effect for the purposes of this Part.

(2) In England and Wales the following are "principal litter authorities"—

(a) a county council,
(aa) a county borough council,
(b) a district council,
(c) a London borough council,
(d) the Common Council of the City of London, and
(e) the Council of the Isles of Scilly;

but the Secretary of State may, by order, designate other descriptions of local authorities as litter authorities for the purposes of this Part; and any such authority shall also be a principal litter authority.

(3) In Scotland the following are "principal litter authorities"—

(a) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994
(c) a joint board.

(4) Subject to subsection (8) below, land is "relevant land" of a principal litter authority if, not being relevant land falling within subsection (7) below, it is open to the air and is land (but not a highway or in Scotland a public road) which is under the direct control of such an authority to which the public are entitled or permitted to have access with or without payment.

(5) Land is "Crown land" if it is land—

(a) occupied by the Crown Estate Commissioners as part of the Crown Estate,

(b) occupied by or for the purposes of a government department or for naval, military or air force purposes, or

(c) occupied or managed by any body acting on behalf of the Crown;

is "relevant Crown land" if it is Crown land which is open to the air and is land (but not a highway or in Scotland a public road) to which the public are entitled or permitted to have access with or without payment; and "the appropriate Crown authority" for any Crown land is the Crown Estate Commissioners, the Minister in charge of the government department or the body which occupies or manages the land on the Crown's behalf, as the case may be.

(6) Subject to subsection (8) below, land is "relevant land" of a designated statutory undertaker if it is land which is under the direct control of any statutory undertaker or statutory undertaker of any description which may be designated by the Secretary of State, by order, for the purposes of this Part, being land to which the public are entitled or permitted to have access with or without payment or, in such cases as may be prescribed in the designation order, land in relation to which the public have no such right or permission.

(7) Subject to subsection (8) below, land is "relevant land" of a designated educational institution if it is open to the air and is land which is under the direct control of the governing body of or, in Scotland, of such body or of the education authority responsible for the management of, any educational institution or educational institution of any description which may be designated by the Secretary of State, by order, for the purposes of this Part.

(8) The Secretary of State may, by order, designate descriptions of land which are not to be treated as relevant Crown land or as relevant land of principal litter authorities, of designated statutory undertakers or of designated educational institutions or of any description of any of them.

(9) Every highway maintainable at the public expense other than a trunk road which is a special road is a "relevant highway" and the local authority which is, for the purposes of this Part, "responsible" for so much of it as lies within its area is, subject to any order under subsection (11) below—

(a) in Greater London, the council of the London borough or the Common Council of the City of London;

(b) in England outside Greater London, the council of the district; and

(bb) in Wales, the council of the county or county borough;

(c) the Council of the Isles of Scilly.

(10) In Scotland, every public road other than a trunk road which is a special road is a "relevant road" and the local authority which is, for the purposes of this Part, "responsible" for so much of it as lies within their area is, subject to any order under subsection (11) below, the council constituted under section 2 of the Local Government etc (Scotland) Act 1994.

(11) The Secretary of State may, by order, as respects relevant highways or relevant roads, relevant highways or relevant roads of any class or any part of a relevant highway or relevant road specified in the order, transfer the responsibility for the discharge of the duties imposed by section 89 below

from the local authority to the highway or roads authority; but he shall not make an order under this subsection unless—

(a) (except where he is the highway or roads authority) he is requested to do so by the highway or roads authority;

(b) he consults the local authority; and

(c) it appears to him to be necessary or expedient to do so in order to prevent or minimise interference with the passage or with the safety of traffic along the highway or, in Scotland, road in question;

and where, by an order under this subsection, responsibility for the discharge of those duties is transferred, the authority to which the transfer is made is, for the purposes of this Part, "responsible" for the highway, road or part specified in the order.

(12) [...]

(13) A place on land shall be treated as "open to the air" notwithstanding that it is covered if it is open to the air on at least one side.

(14) The Secretary of State may, by order, apply the provisions of this Part which apply to refuse to any description of animal droppings in all or any prescribed circumstances subject to such modifications as appear to him to be necessary.

(15) Any power under this section may be exercised differently as respects different areas, different descriptions of land or for different circumstances.

] [1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 15, 2007 as SI 2006/2797)

England

[86.— Preliminary.

(1) The following provisions have effect for the purposes of this Part.

(2) In England and Wales the following are "principal litter authorities"—

(a) a county council,

(aa) a county borough council,

(b) a district council,

(c) a London borough council,

(d) the Common Council of the City of London, and

(e) the Council of the Isles of Scilly;

but the Secretary of State may, by order, designate other descriptions of local authorities as litter authorities for the purposes of this Part; and any such authority shall also be a principal litter authority.

(3) In Scotland the following are "principal litter authorities"—

(a) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994

(c) a joint board.

(4) Subject to subsection (8) below, land is "relevant land" of a principal litter authority if, not being relevant land falling within subsection (7) below, it is open to the air and is land (but not a highway or in Scotland a public road) which is under the direct control of such an authority to which the public are entitled or permitted to have access with or without payment.

(5) Land is "Crown land" if it is land—

(a) occupied by the Crown Estate Commissioners as part of the Crown Estate,

(b) occupied by or for the purposes of a government department or for naval, military or air force purposes, or

(c) occupied or managed by any body acting on behalf of the Crown;

is "relevant Crown land" if it is Crown land which is open to the air and is land (but not a highway or in Scotland a public road) to which the public are entitled or permitted to have access with or without payment; and "the appropriate Crown authority" for any Crown land is the Crown Estate Commissioners, the Minister in charge of the government department or the body which occupies or manages the land on the Crown's behalf, as the case may be.

(6) Subject to subsection (8) below, land is "relevant land" of a designated statutory undertaker if it is land which is under the direct control of any statutory undertaker or statutory undertaker of any description which may be designated by the Secretary of State, by order, for the purposes of this Part, being land to which the public are entitled or permitted to have access with or without payment or, in such cases as may be prescribed in the designation order, land in relation to which the public have no such right or permission.

(7) Subject to subsection (8) below, land is "relevant land" of a designated educational institution if it is open to the air and is land which is under the direct control of the governing body of or, in Scotland, of such body or of the education authority responsible for the management of, any educational institution or educational institution of any description which may be designated by the Secretary of State, by order, for the purposes of this Part.

(8) The Secretary of State may, by order, designate descriptions of land which are not to be treated as relevant Crown land or as relevant land of principal litter authorities, of designated statutory undertakers or of designated educational institutions or of any description of any of them.

(9) Every highway maintainable at the public expense other than a trunk road which is a special road is a "relevant highway" and the local authority which is, for the purposes of this Part, "responsible" for so much of it as lies within its area is, subject to any order under subsection (11) below—

(a) in Greater London, the council of the London borough or the Common Council of the City of London;

(b) in England outside Greater London, the council of the district; and

(bb) in Wales, the council of the county or county borough;

(c) the Council of the Isles of Scilly.

(10) In Scotland, every public road other than a trunk road which is a special road is a "relevant road" and the local authority which is, for the purposes of this Part, "responsible" for so much of it as lies within their area is, subject to any order under subsection (11) below, the council constituted under section 2 of the Local Government etc (Scotland) Act 1994.

(11) The Secretary of State may, by order, as respects relevant highways or relevant roads, relevant highways or relevant roads of any class or any part of a relevant highway or relevant road specified in the order, transfer the responsibility for the discharge of the duties imposed by section 89 below

from the local authority to the highway or roads authority; but he shall not make an order under this subsection unless—

(a) (except where he is the highway or roads authority) he is requested to do so by the highway or roads authority;

(b) he consults the local authority; and

(c) it appears to him to be necessary or expedient to do so in order to prevent or minimise interference with the passage or with the safety of traffic along the highway or, in Scotland, road in question;

and where, by an order under this subsection, responsibility for the discharge of those duties is transferred, the authority to which the transfer is made is, for the purposes of this Part, "responsible" for the highway, road or part specified in the order.

(12) [...]

(13) A place on land shall be treated as "open to the air" notwithstanding that it is covered if it is open to the air on at least one side.

(14) The Secretary of State may, by order, apply the provisions of this Part which apply to refuse to any description of animal droppings in all or any prescribed circumstances subject to such modifications as appear to him to be necessary.

(15) Any power under this section may be exercised differently as respects different areas, different descriptions of land or for different circumstances.

] [1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 6, 2007 as SI 2007/390)

Commencement

Pt IV s. 86(1): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 86(2): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 86(3): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 86(4)-(5): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(1), art. 2(2))

Pt IV s. 86(6)-(8): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 86(9): February 13, 1991 (SI 1991/96 art. 3)

Pt IV s. 86(10): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 86(11): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 86(12): June 1, 1991 (SI 1991/1042 art. 3)

Pt IV s. 86(13): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 86(14)-(15): January 14, 1991 (SI 1991/96 art. 2)

Extent

Pt IV s. 86(1)-(15): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

87.— Offence of leaving litter.

(1) If any person throws down, drops or otherwise deposits in, into or from any place to which this section applies, and leaves, any thing whatsoever in such circumstances as to cause, or contribute to, or tend to lead to, the defacement by litter of any place to which this section applies, he shall, subject to subsection (2) below, be guilty of an offence.

(2) No offence is committed under this section where the depositing and leaving of the thing was—

(a) authorised by law, or

(b) done with the consent of the owner, occupier or other person or authority having control of the place in or into which that thing was deposited.

(3) This section applies to any public open place and, in so far as the place is not a public open place, also to the following places—

(a) any relevant highway or relevant road and any trunk road which is a special road;

(b) any place on relevant land of a principal litter authority;

(c) any place on relevant Crown land;

(d) any place on relevant land of any designated statutory undertaker;

(e) any place on relevant land of any designated educational institution;

(f) any place on relevant land within a litter control area of a local authority.

(4) In this section "public open place" means a place in the open air to which the public are entitled or permitted to have access without payment; and any covered place open to the air on at least one side and available for public use shall be treated as a public open place.

(5) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) A local authority, with a view to promoting the abatement of litter, may take such steps as the authority think appropriate for making the effect of subsection (5) above known to the public in their area.

(7) In any proceedings in Scotland for an offence under this section it shall be lawful to convict the accused on the evidence of one witness.

England and Wales

[87.— Offence of leaving litter.

(1) A person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it.

(2) This section applies to any place in the area of a principal litter authority which is open to the air, subject to subsection (3) below.

(3) This section does not apply to a place which is "open to the air" for the purposes of this Part by virtue of section 86(13) above if the public does not have access to it, with or without payment.

(4) It is immaterial for the purposes of this section whether the litter is deposited on land or in water.

(4A) No offence is committed under subsection (1) above where the depositing of the litter is–

(a) authorised by law; or

(b) done by or with the consent of the owner, occupier or other person having control of the place where it is deposited.

(4B) A person may only give consent under subsection (4A)(b) above in relation to the depositing of litter in a lake or pond or watercourse if he is the owner, occupier or other person having control of–

(a) all the land adjoining that lake or pond or watercourse; and

(b) all the land through or into which water in that lake or pond or watercourse directly or indirectly discharges, otherwise than by means of a public sewer.

(4C) In subsection (4B) above, "lake or pond" , "watercourse" and "public sewer" have the same meanings as in section 104 of the Water Resources Act 1991.

[(4D) No proceedings may be instituted for an offence under subsection (1) which is a littering offence in respect of a vehicle within the meaning of section 88A(2) if—

(a) a penalty notice has been given under section 88A to the keeper of the vehicle in respect of which the offence was committed, and

(b) the fixed penalty has been paid or recovered in full.

] [2]

(5) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) A local authority, with a view to promoting the abatement of litter, may take such steps as the authority think appropriate for making the effect of subsection (5) above known to the public in their area.

(7) In any proceedings in Scotland for an offence under this section it shall be lawful to convict the accused on the evidence of one witness.

] [1]

Notes

[1] S.87(1)-(4C) substituted for s.87(1)-(4) by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.18 (June 7, 2005)

[2] Added by Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018/171 Pt 5 reg.21 (April 1, 2018)

Commencement

Pt IV s. 87(1)-(2): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 87(3)(a)-(3)(e): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 87(3)(f): June 1, 1991 (SI 1991/1042 art. 3)

Pt IV s. 87(4): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 87(4A)-(4B): Date not available

Pt IV s. 87(4C)-(4D): Date not available

Pt IV s. 87(5)-(6): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 87(7): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IV s. 87-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England | Scotland

Law In Force With Amendments Pending

Wales

88.— Fixed penalty notices for leaving litter.

(1) Where on any occasion an authorised officer of a litter authority finds a person who he has reason to believe has on that occasion committed an offence under section 87 above in the area of that authority, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person is given a notice under this section in respect of an offence—

(a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and

(b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(3) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

(a) the period during which, by virtue of subsection (2) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(4) Where a letter is sent in accordance with subsection (3) above payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(5) The form of notices under this section shall be such as the Secretary of State may by order prescribe.

[(6) The fixed penalty payable in pursuance of a notice under this section is payable to the litter authority whose authorised officer gave the notice.

(6A) The amount of a fixed penalty payable in pursuance of a notice under this section–

(a) is the amount specified by a principal litter authority in relation to its area (whether the penalty is payable to that or another authority), or

[(b) if no amount is so specified, is—

(i) in England, £100, or

(ii) in Wales, £75.

] [2]

(6B) The reference in subsection (6A) above to a principal litter authority does not include an English county council for an area for which there is also a district council.

(7) The litter authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority. **]** [1]

(8) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of—

(i) in England and Wales, the chief finance officer of the litter authority; or

(ii) in Scotland, the proper officer; and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

[(8A) If an authorised officer of a litter authority proposes to give a person a notice under this section, the officer may require the person to give him his name and address.

(8B) A person commits an offence if–

(a) he fails to give his name and address when required to do so under subsection (8A) above, or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(8C) A person guilty of an offence under subsection (8B) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale. **]** [1]

(9) For the purposes of this section the following are "litter authorities"—

(a) any principal litter authority, other than **[** an English county **]** [3] , a regional council or a joint board;

(b) any **[** English **]** [4] county council, regional council or joint board designated by the Secretary of State, by order, in relation to such area as is specified in the order (not being an area in a National Park); **[…]**[1]

(c)-(d) **[…]**[5]

(e) the Broads Authority **[** ; and **]** [1]

[(f) a parish or community council. **]** [1]

(10) In this section—

["authorised officer", in relation to a litter authority, means–

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

] [1]

"chief finance officer", in relation to a litter authority, means the person having responsibility for the financial affairs of the authority;

[…][5]

(a)-(b) **[…]**[5]

"proper officer" means the officer who has, as respects the authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration).

[(11) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under this section. **]** [1]

Notes

1 Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.19 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

2 Substituted by Environmental Offences (Fixed Penalties) (England) Regulations 2017/1050 reg.6(1) (April 1, 2018)

3 Words substituted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(8)(a) (April 1, 1996)

4 Word inserted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(8)(b) (April 1, 1996)

5 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

England

[88.— Fixed penalty notices for leaving litter.

(1) Where on any occasion an authorised officer of a litter authority finds a person who he has reason to believe has on that occasion committed an offence under section 87 above in the area of that authority, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person is given a notice under this section in respect of an offence—

(a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and

(b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(3) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

(a) the period during which, by virtue of subsection (2) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(4) Where a letter is sent in accordance with subsection (3) above payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(5) The form of notices under this section shall be such as the Secretary of State may by order prescribe.

[(6) The fixed penalty payable in pursuance of a notice under this section is payable to the litter authority whose authorised officer gave the notice.

(6A) The amount of a fixed penalty payable in pursuance of a notice under this section–

(a) is the amount specified by a principal litter authority in relation to its area (whether the penalty is payable to that or another authority), or

[(b) if no amount is so specified, is—

(i) in England, £100, or

(ii) in Wales, £75.

] [3]

(6B) The reference in subsection (6A) above to a principal litter authority does not include an English county council for an area for which there is also a district council.

(7) The litter authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority. **]** [2]

(8) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of—

(i) in England and Wales, the chief finance officer of the litter authority; or

(ii) in Scotland, the proper officer; and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

[(8A) If an authorised officer of a litter authority proposes to give a person a notice under this section, the officer may require the person to give him his name and address.

(8B) A person commits an offence if–

(a) he fails to give his name and address when required to do so under subsection (8A) above, or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(8C) A person guilty of an offence under subsection (8B) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale. **]** [2]

(9) For the purposes of this section the following are "litter authorities"—

(a) any principal litter authority, other than an English county, a regional council or a joint board;

(b) any English county council, regional council or joint board designated by the Secretary of State, by order, in relation to such area as is specified in the order (not being an area in a National Park); **[…]**[2]

(e) the Broads Authority **[** ; and **]** [2]

[(f) a parish or community council. **]** [2]

(10) In this section—

["authorised officer", in relation to a litter authority, means–

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

] [2]

"chief finance officer", in relation to a litter authority, means the person having responsibility for the financial affairs of the authority;

"proper officer" means the officer who has, as respects the authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration).

[(11) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under this section. **]** [4]

] [1]

Notes

[1] Figure substituted by Litter (Fixed Penalty)(England) Order 2002/424 art.2 (April 1, 2002)

[2] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.19 (April 6, 2006 as SI 2006/795)

[3] Substituted by Environmental Offences (Fixed Penalties) (England) Regulations 2017/1050 reg.6(1) (April 1, 2018)

[4] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.19(6) (March 14, 2006 as SI 2006/795)

Scotland

[88.— Fixed penalty notices for leaving litter.

[(1) Where

(a) an authorised **[** person or a constable **]** [3] has reason to believe that a person has committed an offence under section 87 above **[** , **]** [4]

(b) **[…]**[4]

he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(1A) Where a constable gives a notice under this section to a person, he shall, no later than 24 hours after the giving of the notice, send a copy of it to the litter authority in whose area the offence was committed. **]** [2]

(2) Where a person is given a notice under this section in respect of an offence—

(a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and

(b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(3) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

(a) the period during which, by virtue of subsection (2) above, proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(4) Where a letter is sent in accordance with subsection (3) above payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(5) The form of notices under this section shall be such as the Secretary of State may by order prescribe.

[(5A) A fixed penalty payable in pursuance of a notice under this section shall be payable **[…]**[5]

[(a) where the notice is given by an officer of a litter authority authorised as mentioned in paragraph (a) of the definition of "authorised person" in subsection (10) below, to that litter authority;

(b) where the notice is given by an officer of Loch Lomond and The Trossachs National Park Authority authorised as mentioned in paragraph (b) of that definition, to that Authority. **]** [5]

] [2]

(6) The fixed penalty payable **[…]**[2] in pursuance of a notice under this section shall, subject to subsection (7) below, be **[** £80 **]** [6] ; and as respects the sums received by **[…]**[7]

(a) **[…]**[8]

[(a) a litter authority, those sums if received by an authority in Scotland, shall accrue to the litter authority;

(b) Loch Lomond and The Trossachs National Park Authority, shall accrue to that Authority. **]** [7]

(7) The Secretary of State may by order substitute a different amount **[** (not exceeding level 2 on the standard scale) **]** [2] for the amount for the time being specified as the amount of the fixed penalty in subsection (6) above.

(8) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of—

(i) in England and Wales, the chief finance officer of the litter authority; or

(ii) in Scotland, **[** a proper officer **]** [9] ; and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

[(8A) In subsection (8) above, "proper officer" means—

(a) in a case where a notice under this section is given as mentioned in paragraph (a) of subsection (5A) above, the officer who has, as respects the litter authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration);

(b) in a case where a notice is given as mentioned in paragraph (b) of that subsection, the proper officer for that Authority appointed under paragraph 12(3) of schedule 2 to the National Parks (Scotland) Act 2000.

(8B) If an authorised person proposes to give a person a notice under this section, the authorised person may require the person to give him his name and address.

(8C) A person commits an offence if he fails to give his name and address when required to do so under subsection (8B) above.

(8D) A person who commits an offence under subsection (8C) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale. **]** [10]

(9) For the purposes of this section the following are "litter authorities"—

(a) any principal litter authority, other than an English county or a joint board;

(b) any **[** English **]** [11] county council or joint board designated by the Secretary of State, by order, in relation to such area as is specified in the order (not being an area in a National Park); **[** and **]** [12]

(c)-(d) **[…]**[12]

(e) the Broads Authority.

(10) In this section—

["authorised person" means—

(a) an officer of a litter authority who is authorised in writing by the authority for the purpose of issuing notices under this section in relation to an offence under section 87 above committed in the area of the authority;

(b) an officer of Loch Lomond and The Trossachs National Park Authority who is authorised in writing by the Authority for the purpose of issuing notices under this section in relation to an offence under section 87 above committed in the area designated as the National Park for which the Authority is established; or

(c) such other persons as may be specified by order made by the Scottish Ministers; **]** [13]

"chief finance officer", in relation to a litter authority, means the person having responsibility for the financial affairs of the authority **[.]** [14]

[…][12]

(a)-(b) **[…]**[12]

[…][14]

[(10A) The Scottish Ministers may by order make such modifications of this section as they consider necessary or expedient in connection with the specification of a person by an order under paragraph (c) of the definition of "authorised person" in subsection (10) above.

(10B) An order under subsection (10A) above may include—

(a) provision applying any provision of this section to such a person with such modifications as may be specified in the order;

(b) provision for any such provision not to apply in relation to such a person.

] [15]

] [1]

Notes

1 Words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch.14 para. (April 1, 1996 as SI 1996/323)

2 Amended by Antisocial Behaviour etc. (Scotland) Act 2004 asp 8 (Scottish Act) Pt 6 s.56 (October 28, 2004)

3 Words substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(a)(i) (April 1, 2015)

4 Words repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(a)(ii) (April 1, 2015)

5 S.88(5A)(a) and (b) substituted for words by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(b) (April 1, 2015)

6 Figure substituted by Litter (Fixed Penalties) (Scotland) Order 2013/315 (Scottish SI) art.3(b) (April 1, 2014)

7 Existing text and s.88(6)(b) renumbered as s.88(6)(a) and a new s.88(6)(b) inserted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(c) (April 1, 2015)

8 Repealed by Local Government Act 2003 c. 26 Sch.8(1) para.1 (November 27, 2003 as SI 2003/3034)

9 Words substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(d) (April 1, 2015)

10 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(e) (April 1, 2015)

11 Word inserted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(8)(b) (April 1, 1996)

12 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

13 Definition substituted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(f)(i) (April 1, 2015)

14 Definition repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(f)(ii) (April 1, 2015)

15 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(2) para.11(4)(g) (April 1, 2015)

Amendments Pending

Pt IV s. 88(10) definition of "Park board" (a): word repealed within definition by Local Government (Wales) Act 1994 c. 19 Sch. 18 para. 1 (date to be appointed)

Pt IV s. 88(11): s.88(11)-(13) substituted for s.88(11) by Environment Act 2021 c. 30, Pt 3 s. 68(2) (date to be appointed)

Commencement

Pt IV s. 88(1): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(1A): Date not available

Pt IV s. 88(2): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(13)-(12): Date not available

Pt IV s. 88(3)-(4): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(5): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 88(6): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(5A)-(6A): Date not available

Pt IV s. 88(6B): Date not available

Pt IV s. 88(7): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 88(8): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(8A)-(7A): Date not available

Pt IV s. 88(8B): Date not available

Pt IV s. 88(8C): Date not available

Pt IV s. 88(9)(c)-(9)(a): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(9)(b): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 88(9)(e): February 13, 1991 in relation to England and Wales; repealed, never in force in relation to Scotland (1994 c. 39 Sch. 14 para.; SI 1991/96 art. 3)

Pt IV s. 88(9)(f): Date not available

Pt IV s. 88(10): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 88(8D): Date not available

Pt IV s. 88(11): Date not available

Pt IV s. 88(10A)-(10B): Date not available

Extent

Pt IV s. 88-(6)(b), (7)-(10) definition of "authorised officer", (10) definition of "chief finance officer"-(10) definition of "Park board" (b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt IV s. 88(6B), (10) definition of "authorised officer" (a)-(10) definition of "authorised officer" (c): England, Wales, Scotland

Law In Force

[88A Littering from vehicles: civil penalty regime

(1) The Secretary of State may make regulations under which the keeper of a vehicle may be required to pay a fixed penalty to a litter authority where there is reason to believe that a littering offence in England has been committed in respect of the vehicle.

(2) A littering offence is committed in respect of a vehicle if an offence under section 87(1) occurs as a result of litter being thrown, dropped or otherwise deposited from the vehicle (whether or not by the vehicle's keeper).

(3) Regulations under this section must make provision—

(a) setting the amount of fixed penalties or specifying how the amount is to be determined;

(b) about the period within which fixed penalties must be paid;

(c) for payment within that period of a fixed penalty imposed for a littering offence committed in respect of a vehicle to discharge any liability for conviction for the offence (whether on the part of the keeper or anybody else);

(d) for a fixed penalty to be payable by the keeper of a vehicle only if a written notice is given to the keeper ("a penalty notice");

(e) about the persons authorised to give penalty notices;

(f) about the procedure to be followed in giving penalty notices;

(g) about the form and content of penalty notices;

(h) conferring rights to make representations about, and to bring appeals against, penalty notices.

(4) Provision under subsection (3)(e) may authorise a person to give a penalty notice for a littering offence committed in respect of a vehicle only if—

(a) the person is under a duty under section 89(1) in respect of the land where the offence is committed (and that person is a "litter authority" in relation to a fixed penalty payable under the regulations), or

(b) the person is an authorised officer of a litter authority,

and regulations under this section may include provision about the meaning of "authorised officer".

(5) Regulations under this section may include provision—

(a) for the enforcement of penalty notices (and such provision may in particular authorise an unpaid fixed penalty to be recovered summarily as a civil debt or as if payable under an order of a court if the court so orders);

(b) about the application of sums paid under penalty notices (and such provision may in particular authorise sums paid to a litter authority to be applied for the purposes of such functions of the authority as the regulations may specify);

(c) about the application of the regulations to keepers of vehicles in the public service of the Crown.

(6) Regulations under this section may, in consequence of any provision contained in the regulations, amend—

(a) this Part, or

(b) Part 2 of the London Local Authorities Act 2007.

(7) Regulations under this section may—

(a) make provision corresponding or similar to any provision made by or under section 88;

(b) make provision subject to exceptions;

(c) include saving, transitional, transitory, supplementary or consequential provision.

(8) Provision of the kind mentioned in subsection (7)(a) may include provision—

(a) conferring a discretion on a litter authority, subject to such constraints or limitations as the regulations may specify (whether or not of a corresponding or similar kind to those mentioned in section 97A(2));

(b) creating an offence of the kind mentioned in section 88(8B) and (8C),

but may not include provision conferring power on a person to make orders or regulations.

(9) In this section—

"keeper", in relation to a vehicle, means the person by whom the vehicle is kept at the time when the littering offence in question occurs, which in the case of a registered vehicle is to be presumed, unless the contrary is proved, to be the registered keeper;

"litter authority" has the meaning given in subsection (4)(a);

"registered keeper", in relation to a registered vehicle, means the person in whose name the vehicle is registered;

"registered vehicle" means a vehicle which is for the time being registered under the Vehicle Excise and Registration Act 1994;

"vehicle" means a mechanically-propelled vehicle or a vehicle designed or adapted for towing by a mechanically-propelled vehicle.

] [1]

Notes

[1] Added by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 11 s.154(2) (October 25, 2017)

Extent

Pt IV s. 88A(1)-(9) definition of "vehicle": England, Wales, Scotland

Not Yet In Force

[88B Guidance on littering enforcement in England and Wales

(1) The appropriate person may issue guidance to litter authorities on the exercise of littering enforcement functions by those authorities and authorised officers of those authorities.

(2) A litter authority must have regard to that guidance when exercising any of its littering enforcement functions.

(3) The appropriate person may revise any guidance issued under this section at any time.

(4) Before issuing guidance, or revised guidance, under this section the appropriate person must consult such persons as the appropriate person thinks appropriate.

(5) In this section—

"authorised officer", in relation to a litter authority, means a person who is an authorised officer in relation to that authority for the purposes of—

(a) section 88 (fixed penalty notices for littering, see subsection (10) of that section),

(b) section 88A (fixed penalty notices for littering from vehicles in England, see subsection (4) of that section), or

(c) Schedule 3A (distribution of free printed matter, see paragraph 8 of that Schedule);

"littering enforcement function" means—

(a) any function of a litter authority, or of an authorised officer of that authority, conferred by or under sections 87 to 88A or Schedule 3A, or

(b) any function exercised for purposes connected with any of those sections or that Schedule.

] [1]

Notes

[1] Added by Environment Act 2021 c. 30 Pt 3 s.68(3) (date to be appointed)

Extent

Pt IV s. 88B(1)-(5) definition of "littering enforcement function" (b): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force

Scotland

89.— Duty to keep land and highways clear of litter etc.

(1) It shall be the duty of—

(a) each local authority, as respects any relevant highway or, in Scotland, relevant road for which it is responsible,

(b) the Secretary of State, as respects any trunk road which is a special road **[** (other than one to which paragraph (ba)(i) applies) **]** [1] and any relevant highway or relevant road for which he is responsible,

[(ba) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible,

] [2]

(c) each principal litter authority, as respects its relevant land,

(d) the appropriate Crown authority, as respects its relevant Crown land,

(e) each designated statutory undertaker, as respects its relevant land,

(f) the governing body of each designated educational institution or in Scotland such body or, as the case may be, the education authority responsible for the management of the institution, as respects its relevant land, and

(g) the occupier of any relevant land within a litter control area of a local authority,

to ensure that the land is, so far as is practicable, kept clear of litter and refuse.

(2) Subject to subsection (6) below, it shall also be the duty of—

(a) each local authority, as respects any relevant highway or relevant road for which it is responsible,

(b) the Secretary of State, as respects any trunk road which is a special road **[** (other than one to which paragraph (c)(i) applies) **]** [3] and any relevant highway or relevant road for which he is responsible,

[(c) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible,

] [4]

to ensure that the highway or road is, so far as is practicable, kept clean.

(3) In determining what standard is required, as respects any description of land, highway or road, for compliance with subsections (1) and (2) above, regard shall be had to the character and use of the land, highway or road as well as the measures which are practicable in the circumstances.

(4) Matter of any description prescribed by regulations made by the Secretary of State for the purposes of subsections (1)(a) and (2) above shall be litter or refuse to which the duties imposed by those subsections apply as respects relevant highways or relevant roads whether or not it would be litter or refuse apart from this subsection.

(5) It shall be the duty of a local authority, when discharging its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road, to place and maintain on the highway or road such traffic signs and barriers as may be necessary for giving warning and preventing danger to traffic or for regulating it and afterwards to remove them as soon as they cease to be necessary for those purposes; but this subsection has effect subject to any directions given under subsection (6) below.

(6) In discharging its duty under subsection (1)(a) or (2) above to keep clear of litter and refuse or to clean any relevant highway or relevant road for which it is responsible, the local authority shall comply with any directions given to it by the highway or roads authority with respect to—

(a) the placing and maintenance of any traffic signs or barriers;

(b) the days or periods during which clearing or cleaning shall not be undertaken or undertaken to any extent specified in the direction;

and for the purpose of enabling it to discharge its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road the local authority may apply to the highway authority or roads authority for that authority to exercise its powers under **[** section 14(1) or (2) of the Road Traffic Regulation Act 1984 **]** [5] (temporary prohibition or restriction of traffic).

[(6A) The Scottish Ministers may give to any person subject to a duty imposed by subsection (1) or (2) above such directions as they consider necessary or expedient for securing compliance by such person with such duty.

(6B) A person to whom a direction is given under subsection (6A) shall comply with the direction.

(6C) A direction under subsection (6A) may–

(a) be given generally or to a specific person;

(b) make different provision for different persons and different cases or circumstances;

(c) include provision specifying, in relation to any factor by reference to which a person's discharging of any such duty can be measured, standards to be met by the person.

(6D) The Scottish Ministers shall–

(a) cause–

(i) any direction under subsection (6A) above; and

(ii) any variation or revocation of such a direction,

to be published; and

(b) cause copies of each such direction, variation or revocation to be made available to the public.

] [6]

(7) The Secretary of State shall prepare and issue a code of practice for the purpose of providing practical guidance on the discharge of the duties imposed by subsections (1) and (2) above.

(8) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

(9) The Secretary of State may issue modifications of, or withdraw, a code issued under subsection (7) above; but where a code is withdrawn, he shall prepare and issue a new code under that subsection in substitution for it.

(10) Any person subject to any duty imposed by subsection (1) or (2) above shall have regard to the code of practice in force under subsection (7) above in discharging that duty.

(11) A draft code prepared under subsection (7) above shall be laid before both Houses of Parliament and shall not be issued until after end of the period of 40 days beginning with the day on which the code was so laid, or if the draft is laid on different days, the later of the two days.

(12) If, within the period mentioned in subsection (11) above, either House resolves that the code the draft of which was laid before it should not be issued, the Secretary of State shall not issue that code.

(13) No account shall be taken in reckoning any period of 40 days for the purposes of **[** subsection (11) above **]** [7] of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

[(13A) Subsections (11) to (13) shall not apply in respect of a draft code prepared under subsection (7) above which relates only to Scotland and such a code shall be laid before the Scottish Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the code was so laid.

(13B) If within the period mentioned in subsection (13A) above the Scottish Parliament resolves that the code, the draft of which was laid before it, should not be issued the Scottish Ministers shall not issue that code.

(13C) No account shall be taken in reckoning any period of 40 days for the purposes of subsection (13A) above of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days. **]** [8]

(14) In this section "traffic sign" has the meaning given in section 64(1) of the Road Traffic Regulation Act 1984.

Notes

1 Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(2)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

2 Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(2)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

[3] Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(3)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

[4] Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(3)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

[5] Words substituted by Road Traffic (Temporary Restrictions) Act 1991 c. 26 s.2(6) (June 27, 1991: represents law in force as at date shown)

[6] Added by Antisocial Behaviour etc. (Scotland) Act 2004 asp 8 (Scottish Act) Pt 6 s.57(2) (October 28, 2004)

[7] Words substituted by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 Sch.2(I) para.102(4)(a) (July 1, 1999 the principal appointed day for 1998 c.46)

[8] Added by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 Sch.2(I) para.102(4)(b) (July 1, 1999 the principal appointed day for 1998 c.46)

Wales

[89.— Duty to keep land and highways clear of litter etc.

(1) It shall be the duty of—

(a) each local authority, as respects any relevant highway or, in Scotland, relevant road for which it is responsible,

(b) the Secretary of State, as respects any trunk road which is a special road **[** (other than one to which paragraph (ba)(i) applies) **]** [2] and any relevant highway or relevant road for which he is responsible,

[(ba) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible,

] [3]

(c) each principal litter authority, as respects its relevant land,

(d) the appropriate Crown authority, as respects its relevant Crown land,

(e) each designated statutory undertaker, as respects its relevant land, **[** and **]** [4]

(f) the governing body of each designated educational institution or in Scotland such body or, as the case may be, the education authority responsible for the management of the institution, as respects its relevant land,

(g) [...]

to ensure that the land is, so far as is practicable, kept clear of litter and refuse.

(2) Subject to subsection (6) below, it shall also be the duty of—

(a) each local authority, as respects any relevant highway or relevant road for which it is responsible,

(b) the Secretary of State, as respects any trunk road which is a special road **[** (other than one to which paragraph (c)(i) applies) **]** [5] and any relevant highway or relevant road for which he is responsible,

[(c) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible,

] [6]

to ensure that the highway or road is, so far as is practicable, kept clean.

(3) In determining what standard is required, as respects any description of land, highway or road, for compliance with subsections (1) and (2) above, regard shall be had to the character and use of the land, highway or road as well as the measures which are practicable in the circumstances.

(4) Matter of any description prescribed by regulations made by the Secretary of State for the purposes of subsections (1)(a) and (2) above shall be litter or refuse to which the duties imposed by those subsections apply as respects relevant highways or relevant roads whether or not it would be litter or refuse apart from this subsection.

(5) It shall be the duty of a local authority, when discharging its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road, to place and maintain on the highway or road such traffic signs and barriers as may be necessary for giving warning and preventing danger to traffic or for regulating it and afterwards to remove them as soon as they cease to be necessary for those purposes; but this subsection has effect subject to any directions given under subsection (6) below.

(6) In discharging its duty under subsection (1)(a) or (2) above to keep clear of litter and refuse or to clean any relevant highway or relevant road for which it is responsible, the local authority shall comply with any directions given to it by the highway or roads authority with respect to—

(a) the placing and maintenance of any traffic signs or barriers;

(b) the days or periods during which clearing or cleaning shall not be undertaken or undertaken to any extent specified in the direction;

and for the purpose of enabling it to discharge its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road the local authority may apply to the highway authority or roads authority for that authority to exercise its powers under section 14(1) or (2) of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction of traffic).

(6A) The Scottish Ministers may give to any person subject to a duty imposed by subsection (1) or (2) above such directions as they consider necessary or expedient for securing compliance by such person with such duty.

(6B) A person to whom a direction is given under subsection (6A) shall comply with the direction.

(6C) A direction under subsection (6A) may–

(a) be given generally or to a specific person;

(b) make different provision for different persons and different cases or circumstances;

(c) include provision specifying, in relation to any factor by reference to which a person's discharging of any such duty can be measured, standards to be met by the person.

(6D) The Scottish Ministers shall–

(a) cause–

(i) any direction under subsection (6A) above; and

(ii) any variation or revocation of such a direction,

to be published; and

(b) cause copies of each such direction, variation or revocation to be made available to the public.

(7) The Secretary of State shall prepare and issue a code of practice for the purpose of providing practical guidance on the discharge of the duties imposed by subsections (1) and (2) above.

(8) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

(9) The Secretary of State may issue modifications of, or withdraw, a code issued under subsection (7) above; but where a code is withdrawn, he shall prepare and issue a new code under that subsection in substitution for it.

(10) Any person subject to any duty imposed by subsection (1) or (2) above shall have regard to the code of practice in force under subsection (7) above in discharging that duty.

(11) A draft code prepared under subsection (7) above shall be laid before both Houses of Parliament and shall not be issued until after end of the period of 40 days beginning with the day on which the code was so laid, or if the draft is laid on different days, the later of the two days.

(12) If, within the period mentioned in subsection (11) above, either House resolves that the code the draft of which was laid before it should not be issued, the Secretary of State shall not issue that code.

(13) No account shall be taken in reckoning any period of 40 days for the purposes of subsection (11) above of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(13A) Subsections (11) to (13) shall not apply in respect of a draft code prepared under subsection (7) above which relates only to Scotland and such a code shall be laid before the Scottish Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the code was so laid.

(13B) If within the period mentioned in subsection (13A) above the Scottish Parliament resolves that the code, the draft of which was laid before it, should not be issued the Scottish Ministers shall not issue that code.

(13C) No account shall be taken in reckoning any period of 40 days for the purposes of subsection (13A) above of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(14) In this section "traffic sign" has the meaning given in section 64(1) of the Road Traffic Regulation Act 1984.
] [1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 15, 2007 as SI 2006/2797)

2 Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(2)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

3 Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(2)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

4 Word inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.5 (January 18, 2008 as SI 2007/3371)

5 Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(3)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

6 Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(3)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

England

[89.— Duty to keep land and highways clear of litter etc.

(1) It shall be the duty of—

(a) each local authority, as respects any relevant highway or, in Scotland, relevant road for which it is responsible,

(b) the Secretary of State, as respects any trunk road which is a special road **[** (other than one to which paragraph (ba)(i) applies) **]** [2] and any relevant highway or relevant road for which he is responsible,

[(ba) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible,

] [3]

(c) each principal litter authority, as respects its relevant land,

(d) the appropriate Crown authority, as respects its relevant Crown land,

(e) each designated statutory undertaker, as respects its relevant land, and

(f) the governing body of each designated educational institution or in Scotland such body or, as the case may be, the education authority responsible for the management of the institution, as respects its relevant land, **[…]**[4]

(g) **[** [...] **]** [4]

to ensure that the land is, so far as is practicable, kept clear of litter and refuse.

(2) Subject to subsection (6) below, it shall also be the duty of—

(a) each local authority, as respects any relevant highway or relevant road for which it is responsible,

(b) the Secretary of State, as respects any trunk road which is a special road **[** (other than one to which paragraph (c)(i) applies) **]** [5] and any relevant highway or relevant road for which he is responsible,

[(c) a strategic highways company as respects—

(i) any trunk road which is a special road for which it is the highway authority, and

(ii) any relevant highway for which it is responsible,

] [6]

to ensure that the highway or road is, so far as is practicable, kept clean.

(3) In determining what standard is required, as respects any description of land, highway or road, for compliance with subsections (1) and (2) above, regard shall be had to the character and use of the land, highway or road as well as the measures which are practicable in the circumstances.

(4) Matter of any description prescribed by regulations made by the Secretary of State for the purposes of subsections (1)(a) and (2) above shall be litter or refuse to which the duties imposed by those subsections apply as respects relevant highways or relevant roads whether or not it would be litter or refuse apart from this subsection.

(5) It shall be the duty of a local authority, when discharging its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road, to place and maintain on the highway or road such traffic signs and barriers as may be necessary for giving warning and preventing danger to traffic or for regulating it and afterwards to remove them as soon as they cease to be necessary for those purposes; but this subsection has effect subject to any directions given under subsection (6) below.

(6) In discharging its duty under subsection (1)(a) or (2) above to keep clear of litter and refuse or to clean any relevant highway or relevant road for which it is responsible, the local authority shall comply with any directions given to it by the highway or roads authority with respect to—

(a) the placing and maintenance of any traffic signs or barriers;

(b) the days or periods during which clearing or cleaning shall not be undertaken or undertaken to any extent specified in the direction;

and for the purpose of enabling it to discharge its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road the local authority may apply to the highway authority or roads authority for that authority to exercise its powers under section 14(1) or (2) of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction of traffic).

(6A) The Scottish Ministers may give to any person subject to a duty imposed by subsection (1) or (2) above such directions as they consider necessary or expedient for securing compliance by such person with such duty.

(6B) A person to whom a direction is given under subsection (6A) shall comply with the direction.

(6C) A direction under subsection (6A) may–

(a) be given generally or to a specific person;

(b) make different provision for different persons and different cases or circumstances;

(c) include provision specifying, in relation to any factor by reference to which a person's discharging of any such duty can be measured, standards to be met by the person.

(6D) The Scottish Ministers shall–

(a) cause–

(i) any direction under subsection (6A) above; and

(ii) any variation or revocation of such a direction,

to be published; and

(b) cause copies of each such direction, variation or revocation to be made available to the public.

(7) The Secretary of State shall prepare and issue a code of practice for the purpose of providing practical guidance on the discharge of the duties imposed by subsections (1) and (2) above.

(8) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

(9) The Secretary of State may issue modifications of, or withdraw, a code issued under subsection (7) above; but where a code is withdrawn, he shall prepare and issue a new code under that subsection in substitution for it.

(10) Any person subject to any duty imposed by subsection (1) or (2) above shall have regard to the code of practice in force under subsection (7) above in discharging that duty.

(11) A draft code prepared under subsection (7) above shall be laid before both Houses of Parliament and shall not be issued until after end of the period of 40 days beginning with the day on which the code was so laid, or if the draft is laid on different days, the later of the two days.

(12) If, within the period mentioned in subsection (11) above, either House resolves that the code the draft of which was laid before it should not be issued, the Secretary of State shall not issue that code.

(13) No account shall be taken in reckoning any period of 40 days for the purposes of subsection (11) above of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(13A) Subsections (11) to (13) shall not apply in respect of a draft code prepared under subsection (7) above which relates only to Scotland and such a code shall be laid before the Scottish Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the code was so laid.

(13B) If within the period mentioned in subsection (13A) above the Scottish Parliament resolves that the code, the draft of which was laid before it, should not be issued the Scottish Ministers shall not issue that code.

(13C) No account shall be taken in reckoning any period of 40 days for the purposes of subsection (13A) above of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.

(14) In this section "traffic sign" has the meaning given in section 64(1) of the Road Traffic Regulation Act 1984.
] [1]

Notes

1 Word inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.5 (March 6, 2007 as SI 2007/390)

2 Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(2)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

3 Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(2)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

4 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 6, 2007 as SI 2007/390)

5 Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(3)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

6 Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.111(3)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt IV s. 89(1)(a)-(1)(b): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 89(1)(ba): Date not available

Pt IV s. 89(1)(c)-(1)(f): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 89(1)(g): June 1, 1991 (SI 1991/1042 art. 3)

Pt IV s. 89(2)-(3): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 89(4): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 89(5)-(6): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 89(6A)-(6D): Date not available

Pt IV s. 89(7)-(9): November 13, 1990 (SI 1990/2243 art. 2)

Pt IV s. 89(10): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 89(11)-(13): November 13, 1990 (SI 1990/2243 art. 2)

Pt IV s. 89(13A)-(13C): Date not available

Pt IV s. 89(14): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IV s. 89(1)-(1)(b), (1)(c)-(2)(b), (3)-(14): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt IV s. 89(1)(ba)-(1)(ba)(ii), (2)(c)-(2)(c)(ii): England, Wales, Scotland

---

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England | Scotland | Wales

Partially Repealed With Amendments Pending

England

[...][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.20(1) (April 6, 2006 as SI 2006/795)

Scotland

[90.— Litter control areas.

(1) The Secretary of State may, by order, prescribe descriptions of land which may be designated under subsection (3) below as, or as part of, a litter control area.

(2) The power of the Secretary of State to prescribe descriptions of land under subsection (1) above includes power to describe land by reference to the ownership or occupation of the land or the activities carried on on it.

(3) Any principal litter authority other than an English county council, or a joint board may, in accordance with the following provisions of this section, by order designate any land in their area as, or as part of, a litter control area.

(4) No order under subsection (3) above designating any land shall be made unless the authority is of the opinion that, by reason of the presence of litter or refuse, the condition of the land is, and unless they make a designation order is likely to continue to be, such as to be detrimental to the amenities of the locality.

(5) The power to make a designation order under subsection (3) above shall be excluded from the functions to which section 101 of the Local Government Act 1972 (functions capable of delegation) applies.

(6) An authority proposing to make a designation order in relation to any land shall—

(a) notify persons who appear to the authority to be persons who will be affected by the proposed order;

(b) give them an opportunity to make representations about it within the period of twenty-one days beginning with the service of the notice; and

(c) take any representations so made into account in making their decision.

(7) A designation order under subsection (3) above shall identify the land to which it applies and shall be in such form as the Secretary of State may by order prescribe.

] [1]

Notes

[1] Words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch.14 para. (April 1, 1996 as SI 1996/323)

Wales

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 15, 2007 as SI 2006/2797)

Amendments Pending

Pt IV s. 90: repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch. 5(2) para. 1 (date to be appointed: repeal came into force on March 6, 2007 as SI 2007/390 but cannot take effect as 1990 c.43 s.90 was repealed in relation to England on April 6, 2006)

Commencement

Pt IV s. 90(1)-(2): January 14, 1991 (SI 1991/96 art. 2)

Pt IV s. 90(3)-(6): June 1, 1991 (SI 1991/1042 art. 3)

Pt IV s. 90(7): January 14, 1991 (SI 1991/96 art. 2)

Extent

Pt IV s. 90(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England | Scotland

Law In Force

Wales

[91.— Summary proceedings by persons aggrieved by litter.

(1) A magistrates' court may act under this section on a complaint made by any person on the ground that he is aggrieved by the defacement, by litter or refuse, of—

(a) any relevant highway;
(b) any trunk road which is a special road;
(c) any relevant land of a principal litter authority;
(d) any relevant Crown land;
(e) any relevant land of a designated statutory undertaker; **[** or **]** [2]
(f) any relevant land of a designated educational institution **[** . **]** [3]
(g) **[…]**[3]

(2) A magistrates' court may also act under this section on a complaint made by any person on the ground that he is aggrieved by the want of cleanliness of any relevant highway or any trunk road which is a special road.

(3) A principal litter authority shall not be treated as a person aggrieved for the purposes of proceedings under this section.

(4) Proceedings under this section shall be brought against the person who has the duty to keep the land clear under section 89(1) above or to keep the highway clean under section 89(2) above, as the case may be.

(5) Before instituting proceedings under this section against any person, the complainant shall give to the person not less than five days written notice of his intention to make the complaint and the notice shall specify the matter complained of.

(6) If the magistrates' court is satisfied that the highway or land in question is defaced by litter or refuse or, in the case of a highway, is wanting in cleanliness, the court may, subject to subsections (7) and (8) below, make an order ("a litter abatement order") requiring the defendant to clear the litter or refuse away or, as the case may be, clean the highway within a time specified in the order.

(7) The magistrates' court shall not make a litter abatement order if the defendant proves that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.

(8) The magistrates' court shall not make a litter abatement order where it appears that the matter complained of is the result of directions given to the local authority under section 89(6) above by the highway authority.

(9) A person who, without reasonable excuse, fails to comply with a litter abatement order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.

(10) In any proceedings for an offence under subsection (9) above it shall be a defence for the defendant to prove that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.

(11) A code of practice under section 89(7) shall be admissible in evidence in any proceedings under this section and if any provision of such a code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.

(12) Where a magistrates' court is satisfied on the hearing of a complaint under this section—

(a) that, when the complaint was made to it, the highway or land in question was defaced by litter or refuse or, as the case may be, was wanting in cleanliness, and

(b) that there were reasonable grounds for bringing the complaint,

the court shall order the defendant to pay such reasonable sum to the complainant as the court may determine in respect of the expenses incurred by the complainant in bringing the complaint and the proceedings before the court.

(13) In the application of this section to Scotland—

(a) for any reference to a magistrates' court there shall be substituted a reference to the sheriff;

(b) for any reference to a complaint there shall be substituted a reference to a summary application, and “complainant” shall be construed accordingly;

(c) for any reference to the defendant there shall be substituted a reference to the person against whom the proceedings are taken;

(d) for any reference to a highway and a relevant highway there shall be substituted a reference to a road and a relevant road; and

(e) for any reference to a highway authority there shall be substituted a reference to a roads authority,

and any person against whom proceedings are brought may appeal on a point of law to the Court of Session against the making of a litter abatement order.

] [1]

Notes

1 Word inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.6 (March 6, 2007 as SI 2007/390)

2 Word inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.6 (January 18, 2008 as SI 2007/3371)

3 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 15, 2007 as SI 2006/2797)

England

91.— Summary proceedings by persons aggrieved by litter.

(1) A magistrates' court may act under this section on a complaint made by any person on the ground that he is aggrieved by the defacement, by litter or refuse, of—

(a) any relevant highway;
(b) any trunk road which is a special road;
(c) any relevant land of a principal litter authority;
(d) any relevant Crown land;
(e) any relevant land of a designated statutory undertaker; or
(f) any relevant land of a designated educational institution **[.]** [1]
(g) **[** [...] **]** [1]

(2) A magistrates' court may also act under this section on a complaint made by any person on the ground that he is aggrieved by the want of cleanliness of any relevant highway or any trunk road which is a special road.

(3) A principal litter authority shall not be treated as a person aggrieved for the purposes of proceedings under this section.

(4) Proceedings under this section shall be brought against the person who has the duty to keep the land clear under section 89(1) above or to keep the highway clean under section 89(2) above, as the case may be.

(5) Before instituting proceedings under this section against any person, the complainant shall give to the person not less than five days written notice of his intention to make the complaint and the notice shall specify the matter complained of.

(6) If the magistrates' court is satisfied that the highway or land in question is defaced by litter or refuse or, in the case of a highway, is wanting in cleanliness, the court may, subject to subsections (7) and (8) below, make an order (“a litter abatement order”) requiring the defendant to clear the litter or refuse away or, as the case may be, clean the highway within a time specified in the order.

(7) The magistrates' court shall not make a litter abatement order if the defendant proves that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.

(8) The magistrates' court shall not make a litter abatement order where it appears that the matter complained of is the result of directions given to the local authority under section 89(6) above by the highway authority.

(9) A person who, without reasonable excuse, fails to comply with a litter abatement order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.

(10) In any proceedings for an offence under subsection (9) above it shall be a defence for the defendant to prove that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.

(11) A code of practice under section 89(7) shall be admissible in evidence in any proceedings under this section and if any provision of such a code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.

(12) Where a magistrates' court is satisfied on the hearing of a complaint under this section—

(a) that, when the complaint was made to it, the highway or land in question was defaced by litter or refuse or, as the case may be, was wanting in cleanliness, and

(b) that there were reasonable grounds for bringing the complaint,

the court shall order the defendant to pay such reasonable sum to the complainant as the court may determine in respect of the expenses incurred by the complainant in bringing the complaint and the proceedings before the court.

(13) In the application of this section to Scotland—

(a) for any reference to a magistrates' court there shall be substituted a reference to the sheriff;

(b) for any reference to a complaint there shall be substituted a reference to a summary application, and "complainant" shall be construed accordingly;

(c) for any reference to the defendant there shall be substituted a reference to the person against whom the proceedings are taken;

(d) for any reference to a highway and a relevant highway there shall be substituted a reference to a road and a relevant road; and

(e) for any reference to a highway authority there shall be substituted a reference to a roads authority,

and any person against whom proceedings are brought may appeal on a point of law to the Court of Session against the making of a litter abatement order.

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 6, 2007 as SI 2007/390)

Scotland

91.— Summary proceedings by persons aggrieved by litter.

(1) A magistrates' court may act under this section on a complaint made by any person on the ground that he is aggrieved by the defacement, by litter or refuse, of—

(a) any relevant highway;

(b) any trunk road which is a special road;

(c) any relevant land of a principal litter authority;

(d) any relevant Crown land;

(e) any relevant land of a designated statutory undertaker;

(f) any relevant land of a designated educational institution; or

(g) any relevant land within a litter control area of a local authority.

(2) A magistrates' court may also act under this section on a complaint made by any person on the ground that he is aggrieved by the want of cleanliness of any relevant highway or any trunk road which is a special road.

(3) A principal litter authority shall not be treated as a person aggrieved for the purposes of proceedings under this section.

(4) Proceedings under this section shall be brought against the person who has the duty to keep the land clear under section 89(1) above or to keep the highway clean under section 89(2) above, as the case may be.

(5) Before instituting proceedings under this section against any person, the complainant shall give to the person not less than five days written notice of his intention to make the complaint and the notice shall specify the matter complained of.

(6) If the magistrates' court is satisfied that the highway or land in question is defaced by litter or refuse or, in the case of a highway, is wanting in cleanliness, the court may, subject to subsections (7) and (8) below, make an order ("a litter abatement order") requiring the defendant to clear the litter or refuse away or, as the case may be, clean the highway within a time specified in the order.

(7) The magistrates' court shall not make a litter abatement order if the defendant proves that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.

(8) The magistrates' court shall not make a litter abatement order where it appears that the matter complained of is the result of directions given to the local authority under section 89(6) above by the highway authority.

(9) A person who, without reasonable excuse, fails to comply with a litter abatement order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.

(10) In any proceedings for an offence under subsection (9) above it shall be a defence for the defendant to prove that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.

(11) A

(a) direction under section 89(6A); or

(b) code of practice under section 89(7)

shall be admissible in evidence in any proceedings under this section and if any provision of such a direction or code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.

(12) Where a magistrates' court is satisfied on the hearing of a complaint under this section—

(a) that, when the complaint was made to it, the highway or land in question was defaced by litter or refuse or, as the case may be, was wanting in cleanliness, and

(b) that there were reasonable grounds for bringing the complaint,

the court shall order the defendant to pay such reasonable sum to the complainant as the court may determine in respect of the expenses incurred by the complainant in bringing the complaint and the proceedings before the court.

(13) In the application of this section to Scotland—

(a) for any reference to a magistrates' court there shall be substituted a reference to the sheriff;

(b) for any reference to a complaint there shall be substituted a reference to a summary application, and "complainant" shall be construed accordingly;

(c) for any reference to the defendant there shall be substituted a reference to the person against whom the proceedings are taken;

(d) for any reference to a highway and a relevant highway there shall be substituted a reference to a road and a relevant road; and

(e) for any reference to a highway authority there shall be substituted a reference to a roads authority,

and any person against whom proceedings are brought may appeal on a point of law to the Court of Session against the making of a litter abatement order.

Commencement

Pt IV s. 91(1)(a)-(1)(f): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 91(1)(g): June 1, 1991 (SI 1991/1042 art. 3)

Pt IV s. 91(2)-(13): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IV s. 91(1)-(13)(e): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[92.—

(1) Where a principal litter authority in Scotland other than a joint board is satisfied as respects—

(a) any relevant Crown land,

(b) any relevant land of a designated statutory undertaker,

(c) any relevant land of a designated educational institution, or

(d) any relevant land within a litter control area of a local authority,

that it is defaced by litter or refuse or that defacement of it by litter or refuse is likely to recur, the authority shall serve a notice (a “litter abatement notice”) imposing either the requirement or the prohibition or both the requirement and the prohibition specified in subsection (2).

(2) The requirement and prohibition referred to in subsection (1) are as follows, namely—

(a) a requirement that the litter or refuse be cleared within a time specified in the notice;

(b) a prohibition on permitting the land to become defaced by litter or refuse.

(3) The litter abatement notice shall be served—

(a) as respects relevant Crown land, on the appropriate Crown authority;

(b) as respects relevant land of a designated statutory undertaker, on the undertaker;

(c) as respects relevant land of a designated educational institution, on the governing body of the institution or on the education authority responsible for the management of the institution;

(d) in any other case, on the occupier of the land or, if it is unoccupied, on the owner of the land.

(4) The person served with the notice may appeal against the notice to the sheriff by way of application within the period of 21 days beginning with the date on which the notice was served.

(5) If, on any appeal under subsection (4), the appellant proves that, as respects the land in question, he has complied with his duty under section 89(1), the court shall allow the appeal.

(6) If a person on whom a litter abatement notice is served, without reasonable excuse, fails to comply with or contravenes the requirement or prohibition imposed by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.

(7) In any proceedings for an offence under subsection (6), it shall be a defence for the person charged to prove that he has complied, as respects the land in question, with his duty under section 89(1).

(8) A direction under section 89(6A) or a code of practice under section 89(7) shall be admissible in evidence in any proceedings under this section and, if any provision of such a direction or code appears to the court to be relevant to any question in the proceedings, it shall be taken into account in determining that question.

(9) If a person on whom a litter abatement notice is served fails to comply with the requirement imposed by the notice in respect of any land, the authority may, subject to subsection (10)—

(a) enter on the land and clear the litter or refuse, and

(b) recover from that person the expenditure attributable to their having done so, except such of the expenditure as that person shows was unnecessary in the circumstances.

(10) Subsection (9) does not apply in relation to relevant Crown land or relevant land of statutory undertakers. **]** [1]

Notes

[1] Existing ss 92, 93 and 94 were repealed on October 20, 2014 by 2014 c.12 Sch.11 para.21 but are now newly inserted by Policing and Crime Act 2017 c. 3 Pt 9 c.1 s.179(1) (January 31, 2017: insertion has effect as 2017 c.3 s.183(5)(c) subject to 2017 c.3 s.146(2) and s.179(2))

Commencement

Pt IV s. 92(1)(a)-(1)(c): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 92(1)(d): June 1, 1991 (SI 1991/1042 art. 3)

Pt IV s. 92(2)-(10): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 92(11)-(12): Date not available

Extent

Pt IV s. 92(1)-(10): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt IV s. 92(11)-(12): England, Wales, Scotland

Repealed

[…][1]

Notes

[1] Repealed by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Sch.11(1) para.21 (October 20, 2014: repeal has effect as SI 2014/2590 subject to savings and transitional provisions as specified in 2014 c.12 s.58)

Repealed

[…][1]

Notes

[1] Repealed by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Sch.11(1) para.21 (October 20, 2014: repeal has effect as SI 2014/2590 subject to savings and transitional provisions as specified in 2014 c.12 s.58)

Repealed

[…][1]

Notes

[1] Repealed by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Sch.11(1) para.21 (October 20, 2014: repeal has effect as SI 2014/2590 subject to savings and transitional provisions as specified in 2014 c.12 s.58)

Law In Force

[93.— Street litter control notices

(1) A principal litter authority in Scotland other than a joint board may, with a view to the prevention of accumulations of litter or refuse in and around any street or open land adjacent to any street, issue notices ("street litter control notices") imposing requirements on occupiers of premises in relation to such litter or refuse, in accordance with this section and section 94.

(2) If the authority is satisfied, in respect of any premises which are of a description prescribed under section 94(1)(a) and have a frontage on a street in their area, that—

(a) there is recurrent defacement by litter or refuse of any land, being part of the street or open land adjacent to the street, which is in the vicinity of the premises,

(b) the condition of any part of the premises which is open land in the vicinity of the frontage is, and if no notice is served is likely to continue to be, detrimental to the amenities of the locality by reason of the presence of litter or refuse, or

(c) there is produced, as a result of the activities carried on on the premises, quantities of litter or refuse of such nature and in such amounts as are likely to cause the defacement of any part of the street, or of open land adjacent to the street, which is in the vicinity of the premises,

the authority may serve a street litter control notice on the occupier or, if the premises are unoccupied, on the owner of the premises.

(3) A notice shall, subject to section 94(2), (3) and (4)—

(a) identify the premises and state the grounds under subsection (2) on which it is issued;

(b) specify an area of open land which adjoins or is in the vicinity of the frontage of the premises on the street;

(c) specify, in relation to that area or any part of it, such reasonable requirements as the authority considers appropriate in the circumstances;

and, for the purposes of paragraph (b), an area which includes land on both sides of the frontage of the premises shall be treated as an area adjoining that frontage.

(4) In this section and section 94—

"notice" means a street litter control notice;
"open land" means land in the open air;
"the premises", in relation to a notice, means the premises in respect of which the notice is issued;
"specified area" means the area specified in a notice under subsection (3)(b); and
"street" means a relevant highway, a relevant road or any other highway or road over which there is a right of way on foot.

] [1]

Notes

[1] Existing ss 92, 93 and 94 were repealed on October 20, 2014 by 2014 c.12 Sch.11 para.21 but are now newly inserted by Policing and Crime Act 2017 c. 3 Pt 9 c.1 s.179(1) (January 31, 2017: insertion has effect as 2017 c.3 s.183(5)(c) subject to 2017 c.3 s.146(2) and s.179(2))

Commencement

Pt IV s. 93: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IV s. 93(1)-(4) definition of "street": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[94.— Street litter: supplementary provisions

(1) The Scottish Ministers may by order prescribe—

(a) the descriptions of commercial or retail premises in respect of which a street litter control notice may be issued;

(b) the descriptions of land which may be included in a specified area; and

(c) the maximum area of land which may be included in a specified area;

and different descriptions or maximum dimensions may be prescribed under paragraph (b) or (c) for different cases or circumstances.

An order under this subsection is subject to the negative procedure.

(2) The power to describe premises or land under subsection (1)(a) or (b) includes power to describe the premises or land by reference to occupation or ownership or to the activities carried on there.

(3) The land comprised in a specified area—

(a) shall include only land of one or more of the descriptions prescribed under subsection (1)(b);

(b) shall not include any land which is not—

(i) part of the premises,

(ii) part of a street,

(iii) relevant land of a principal litter authority, or

(iv) land under the direct control of any other local authority; and

(c) shall not exceed any applicable maximum area prescribed under subsection (1)(c);

but a specified area shall not include any part of the premises which is or is part of a litter control area.

(4) The requirements which may be imposed by a notice shall relate to the clearing of litter or refuse from the specified area and may in particular require—

(a) the provision or emptying of receptacles for litter or refuse;

(b) the doing within a period specified in the notice of any such thing as may be so specified (including the standards to which any such thing must be done); or

(c) the doing (while the notice remains in force) at such times or intervals, or within such period, of any such thing as may be so specified;

but a notice may not require the clearing of litter or refuse from any carriageway, except at a time when the carriageway is closed to all vehicular traffic.

(5) In relation to so much of the specified area as is not part of the premises the authority shall take account, in determining what requirements to impose, of their own duties under this Part or otherwise, and of any similar duties of any other local authority, in relation to that land.

(6) An authority proposing to serve a notice shall—

(a) inform the person on whom the notice is to be served;

(b) give him the opportunity to make representations about the notice within the period of 21 days beginning with the day on which he is so informed; and

(c) take any representations so made into account in making their decision.

(7) A person on whom a notice is served may appeal against the notice to the sheriff by way of application; and the court may quash the notice or may quash, vary or add to any requirement imposed by the notice.

(8) If it appears to the authority that a person has failed or is failing to comply with any requirement imposed by a notice, the authority may apply to the sheriff by way of application for an order requiring the person to comply with the requirement within such time as may be specified in the order.

(9) A person who, without reasonable excuse, fails to comply with an order under subsection (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

] [1]

Notes

[1] Existing ss 92, 93 and 94 were repealed on October 20, 2014 by 2014 c.12 Sch.11 para.21 but are now newly inserted by Policing and Crime Act 2017 c. 3 Pt 9 c.1 s.179(1) (January 31, 2017: insertion has effect as 2017 c.3 s.183(5)(c) subject to 2017 c.3 s.146(2) and s.179(2))

Commencement

Pt IV s. 94(1)-(2): January 14, 1991 (SI 1991/96 art. 2; SI 1991/1042 art. 2(1))

Pt IV s. 94(3)-(9): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IV s. 94(1)-(9): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

[…][1]

Notes

[1] Repealed by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Sch.11(1) para.21 (October 20, 2014: repeal has effect as SI 2014/2590 subject to savings and transitional provisions as specified in 2014 c.12 s.58)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[94B Free distribution of printed matter

Schedule 3A (distribution of printed matter on designated land) has effect.] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(1) (March 15, 2007 as SI 2006/2797)

England

[94B Free distribution of printed matter

Schedule 3A (distribution of printed matter on designated land) has effect.] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(1) (April 6, 2006 as SI 2006/795)

Extent

Pt IV s. 94B: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England | Scotland

Law In Force

Wales

95.— Public registers.

(1) It shall be the duty of each principal litter authority other than **[** an English **]** [1] county council, **[** a **]** [2] regional council or **[** a **]** [2] joint board to maintain, in accordance with this section, a register containing copies of—

(a) **[…]**[3]

(b) all street litter control notices issued under section 93(1) above **[** ; and **]** [4]

[(c) all orders made by the authority under paragraph 2(1) of Schedule 3A. **]** [4]

(2) Where the requirements of a street litter control notice are varied or added to on an appeal under section 94(7) above a copy of the order making the variation or addition shall be included in the register.

(3) Copies of the orders and notices required to be kept in the register shall be so kept for so long as the order or notice is in force.

(4) It shall be the duty of each authority maintaining a register under this section—

(a) to secure that the register is available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford to members of the public facilities for obtaining copies of the documents kept in the register, on payment of reasonable charges.

(5) A register under this section need not be kept in documentary form.

Notes

1 Words substituted by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(9) (April 1, 1996)

2 Word inserted in two places by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(9) (April 1, 1996)

3 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 15, 2007 as SI 2006/2797)

4 Inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.8 (January 18, 2008 as SI 2007/3371)

England

[95.— Public registers.

(1) It shall be the duty of each principal litter authority other than an English county council, a regional council or a joint board to maintain, in accordance with this section, a register containing copies of—

(a) [...]

(b) all street litter control notices issued under section 93(1) above **[** ; and **]** [2]

[(c) all orders made by the authority under paragraph 2(1) of Schedule 3A. **]** [2]

(2) Where the requirements of a street litter control notice are varied or added to on an appeal under section 94(7) above a copy of the order making the variation or addition shall be included in the register.

(3) Copies of the orders and notices required to be kept in the register shall be so kept for so long as the order or notice is in force.

(4) It shall be the duty of each authority maintaining a register under this section—

(a) to secure that the register is available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford to members of the public facilities for obtaining copies of the documents kept in the register, on payment of reasonable charges.

(5) A register under this section need not be kept in documentary form.
] [1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(2) para.1 (March 6, 2007 as SI 2007/390)

[2] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.8 (March 6, 2007 as SI 2007/390)

Scotland

[95.— Public registers.

(1) It shall be the duty of each principal litter authority other than an English county council or a joint board to maintain, in accordance with this section, a register containing copies of—

(a) all orders made by the authority under section 90(3) above; and

(b) all street litter control notices issued under section 93(1) above.

(2) Where the requirements of a street litter control notice are varied or added to on an appeal under section 94(7) above a copy of the order making the variation or addition shall be included in the register.

(3) Copies of the orders and notices required to be kept in the register shall be so kept for so long as the order or notice is in force.

(4) It shall be the duty of each authority maintaining a register under this section—

(a) to secure that the register is available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford to members of the public facilities for obtaining copies of the documents kept in the register, on payment of reasonable charges.

(5) A register under this section need not be kept in documentary form.
] [1]

Notes

[1] Words repealed by Local Government etc. (Scotland) Act 1994 c. 39 Sch.14 para. (April 1, 1996 as SI 1996/323)

Commencement

Pt IV s. 95: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IV s. 95(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force

Scotland

96.— Application of Part II.

(1) This section applies to litter and refuse collected—

(a) by any authority or person in pursuance of section 89(1) above;

(b) by a principal litter authority in pursuance of section 92(9) above; or

(c) by any person in pursuance of section 93 above.

(2) The Secretary of State may make regulations providing that prescribed provisions of Part II shall have effect, with such modifications (if any) as may be prescribed—

(a) as if references to controlled waste or controlled waste of a prescribed description included references to litter and refuse to which this section applies or any description of such litter and refuse;

(b) as if references to controlled waste or controlled waste of a prescribed description collected under section 45 above included references to litter and refuse collected as mentioned in subsection (1) above or any description of such litter and refuse.

(3) The powers conferred by this section are exercisable in relation to litter and refuse to which it applies whether or not the circumstances are such that the litter or refuse would be treated as controlled waste apart from this section and this section is not to affect the interpretation of the expressions defined in section 75 above.

Wales

[96.— Application of Part II.

(1) This section applies to litter and refuse collected—

(a) by any authority or person in pursuance of section 89(1) above;

(b) by a principal litter authority in pursuance of section 92(9) or 92C(3) above; or

(c) by any person in pursuance of section 93 above.

(2) The Secretary of State may make regulations providing that prescribed provisions of Part II shall have effect, with such modifications (if any) as may be prescribed—

(a) as if references to controlled waste or controlled waste of a prescribed description included references to litter and refuse to which this section applies or any description of such litter and refuse;

(b) as if references to controlled waste or controlled waste of a prescribed description collected under section 45 above included references to litter and refuse collected as mentioned in subsection (1) above or any description of such litter and refuse.

(3) The powers conferred by this section are exercisable in relation to litter and refuse to which it applies whether or not the circumstances are such that the litter or refuse would be treated as controlled waste apart from this section and this section is not to affect the interpretation of the expressions defined in section 75 above.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.9 (January 18, 2008 as SI 2007/3371)

England

[96.— Application of Part II.

(1) This section applies to litter and refuse collected—

(a) by any authority or person in pursuance of section 89(1) above;

(b) by a principal litter authority in pursuance of section 92(9) or 92C(3) above; or

(c) by any person in pursuance of section 93 above.

(2) The Secretary of State may make regulations providing that prescribed provisions of Part II shall have effect, with such modifications (if any) as may be prescribed—

(a) as if references to controlled waste or controlled waste of a prescribed description included references to litter and refuse to which this section applies or any description of such litter and refuse;

(b) as if references to controlled waste or controlled waste of a prescribed description collected under section 45 above included references to litter and refuse collected as mentioned in subsection (1) above or any description of such litter and refuse.

(3) The powers conferred by this section are exercisable in relation to litter and refuse to which it applies whether or not the circumstances are such that the litter or refuse would be treated as controlled waste apart from this section and this section is not to affect the interpretation of the expressions defined in section 75 above.
] [1]

Notes

[1] Words inserted by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.4 para.9 (March 6, 2007 as SI 2007/390)

Commencement

Pt IV s. 96(1): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 96(2)-(3): January 14, 1991 (SI 1991/96 art. 2)

Extent

Pt IV s. 96(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

97.— Transitional provision relating to section 89.

(1) The Secretary of State may, for the purposes of the transition to the duties imposed by section 89 above on local authorities and educational bodies, by regulations, make provision—

(a) modifying that section, or

(b) modifying Part I of the Local Government Act 1988 (competition rules for functional work or works contracts).

(2) Regulations under this section may make different provision for different descriptions of authorities, different areas or other different circumstances or cases.

(3) In this section—

"educational bodies" means the governing bodies and education authorities mentioned in section 89(1)(f) above; and

"local authorities" means the local authorities mentioned in section 89(1)(a) and (c) and (2)(a) above.

Commencement

Pt IV s. 97: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IV s. 97(1)-(3) definition of "local authorities": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[97A Fixed penalty notices: supplementary

(1) The appropriate person may by regulations make provision in connection with the powers conferred under–

(a) section 88(6A)(a) and (7) above;
(b) section 94A(4)(a) and (5) above;
(c) paragraph 7(4)(a) and (5) of Schedule 3A.

(2) Regulations under subsection (1) may (in particular)–

(a) require an amount specified under section 88(6A)(a), 94A(4)(a) or paragraph 7(4)(a) of Schedule 3A to fall within a range prescribed in the regulations;
(b) restrict the extent to which, and the circumstances in which, an authority can make provision under section 88(7), 94A(5) or paragraph 7(5) of Schedule 3A.

(3) The appropriate person may by order substitute a different amount for the amount for the time being specified in section 88(6A)(b), 94A(4)(b) or paragraph 7(4)(b) of Schedule 3A.

(4) Regulations or an order under this section may make different provision for different purposes. **]** [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.24 (April 6, 2006 as SI 2006/795)

Wales

[97A Fixed penalty notices: supplementary

(1) The appropriate person may by regulations make provision in connection with the powers conferred under–

(a) section 88(6A)(a) and (7) above;
(b) section 94A(4)(a) and (5) above;
(c) paragraph 7(4)(a) and (5) of Schedule 3A.

(2) Regulations under subsection (1) may (in particular)–

(a) require an amount specified under section 88(6A)(a), 94A(4)(a) or paragraph 7(4)(a) of Schedule 3A to fall within a range prescribed in the regulations;
(b) restrict the extent to which, and the circumstances in which, an authority can make provision under section 88(7), 94A(5) or paragraph 7(5) of Schedule 3A.

(3) The appropriate person may by order substitute a different amount for the amount for the time being specified in section 88(6A)(b), 94A(4)(b) or paragraph 7(4)(b) of Schedule 3A.

(4) Regulations or an order under this section may make different provision for different purposes. **]** [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.24 (March 16, 2006 as SI 2006/768 and SI 2006/2797)

Extent

Pt IV s. 97A(1)-(4): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[97B Exclusion of liability

(1) None of the persons mentioned in subsection (2) below is to have any liability to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of the power in section 92(9), 92A(9) or 92C(3) above.

(2) Those persons are–

(a) the principal litter authority and any employee of the authority; and

(b) in the case of the power in section 92C(3) above, any person authorised by the authority under that provision and the employer or any employee of that person.

(3) Subsection (1) above does not apply–

(a) if the act or omission is shown to be in bad faith;

(b) to liability arising out of a failure to exercise due care and attention;

(c) so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.

(4) This section does not affect any other exemption from liability (whether at common law or otherwise).

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.25 (March 15, 2007 as SI 2006/2797)

England

[97B Exclusion of liability

(1) None of the persons mentioned in subsection (2) below is to have any liability to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of the power in section 92(9), 92A(9) or 92C(3) above.

(2) Those persons are–

(a) the principal litter authority and any employee of the authority; and

(b) in the case of the power in section 92C(3) above, any person authorised by the authority under that provision and the employer or any employee of that person.

(3) Subsection (1) above does not apply–

(a) if the act or omission is shown to be in bad faith;

(b) to liability arising out of a failure to exercise due care and attention;

(c) so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.

(4) This section does not affect any other exemption from liability (whether at common law or otherwise).

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.25 (April 6, 2006 as SI 2006/795)

Extent

Pt IV s. 97B(1), (2)(a)-(4): England, Wales, Scotland

Pt IV s. 97B(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Law In Force With Amendments Pending

Scotland

98.— Definitions.

(1) The following definitions apply for the interpretation of this Part.

(2) "Educational institution", in relation to England and Wales, means—

(a) **[…]**[1]

(b) the Open University;

(c) any institution which provides higher education or further education (or both) which is full-time education being an institution which—

(i) is maintained by grants made by the Secretary of State under **[** section 485 of the Education Act 1996 **]** [2] ;

(ii) is designated by or under regulations under section 218 of the Education Reform Act 1988 as an institution dependent for its maintenance on assistance from local education authorities; or

(iii) is maintained by a **[** local authority as defined in section 579(1) of the Education Act 1996 **]** [3] ;

[(d) any institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992 **]** [4]

[(da) any institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992. **]** [5]

(e) any city technology college **[** , city college for the technology of the arts or **]** [6] **[** Academy **]** [7] ;

[(f) any community, foundation or voluntary school;

(g) any community or foundation special school. **]** [8]

(3) "Educational institution", in relation to Scotland, means—

(a) any university within the meaning of the Education Reform Act 1988 funded by the Universities Funding Council under section 131 of that Act;

(b) the Open University;

[(c) any educational establishment (not being a school) within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible;

(cc) any college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 managed by a board of management established under Part I of that Act; **]** [9]

[(d) a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992; **]** [10]

(e) a technology academy within the meaning of section 68(1) of the 1989 Act;

(f) a public school as defined in section 135(1) of the **[** Education (Scotland) Act 1980 ("the 1980 Act") **]** [11] ;

(g) a grant-aided school as defined in section 135(1) of the 1980 Act **[** . **]** [12]

(h) **[…]**[12]

[…][12]

(4) "Joint board", in relation to Scotland, has the meaning given by section 235(1) of the Local Government (Scotland) Act 1973.

(5) "Highway" (and "highway maintainable at the public expense"), **[** "highway authority" **]** [13] "special road" and "trunk road", in relation to England and Wales, have the same meaning as in the Highways

Act 1980 and "public road", "special road" and "trunk road", in relation to Scotland, have the same meaning as in the Roads (Scotland) Act 1984.

(6) "Statutory undertaker" means —

(a) any person authorised by any enactment to carry on any railway, light railway, tramway or road transport undertaking;

[(aa) any operator of a relevant railway asset; **]** [14]

(b) any person authorised by any enactment to carry on any canal, inland navigation, dock, harbour or pier undertaking; or

(c) any relevant airport operator (within the meaning of Part V of the Airports Act 1986).

[(6A) In subsection (6) above, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. **]** [15]

[(7) Subject to subsection (8) below, "relevant railway asset" means–

(a) a transferred network, that is to say a network which was transferred by virtue of a transfer scheme made under section 85 of the Railways Act 1993 from the British Railways Board and vested in the company formed and registered under the Companies Act 1985 and known, at the date of the vesting, as Railtrack PLC,

(b) a station which is used in connection with the provision of services for the carriage of passengers on a transferred network and is operated by a provider of such services or by the operator of such a network, or

(c) a light maintenance depot which is used to provide light maintenance services for rolling stock which is used on a transferred network.

(8) A transferred network shall not cease to be such a network where it is modified by virtue of having any network or part of a network added to or removed from it.

(9) Expressions used in subsections (6)(aa), (7) and (8) above and in Part I of the Railways Act 1993 have the same meaning in those subsections as they have in that Part. **]** [16]

Notes

1 Repealed by Further and Higher Education Act 1992 c. 13 Sch.9 para. (April 1, 1993 as SI 1992/831)

2 Words substituted by Education Act 1996 c. 56 Sch.37(I) para.100(a) (November 1, 1996)

3 Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.39 (May 5, 2010)

4 Substituted by Further and Higher Education Act 1992 c. 13 Sch.8(II) para.95(b) (April 1, 1993)

5 Added by Further and Higher Education Act 1992 c. 13 Sch.8(II) para.95(c) (April 1, 1993)

6 Words substituted by Learning and Skills Act 2000 c. 21 Sch.9 para.19 (July 28, 2000)

7 Words substituted by Education Act 2002 c. 32 Sch.7(2) para.2 (July 26, 2002 as SI 2002/2002)

8 Substituted by School Standards and Framework Act 1998 c. 31 Sch.30 para.23 (September 1, 1999: as in SI 1999/2323)

9 S.98(3)(c) and (cc) substituted for s.98(3)(c) by Further and Higher Education (Scotland) Act 1992 c. 37 Sch.9 para.13(a) (April 1, 1993 as SI 1992/817)

10 Substituted by Further and Higher Education (Scotland) Act 1992 c. 37 Sch.9 para.13(b) (May 16, 1992 as SI 1992/817)

11 Words substituted by Further and Higher Education (Scotland) Act 1992 c. 37 Sch.9 para.13(c) (May 16, 1992 as SI 1992/817)

12 Repealed by Standards in Scotland's Schools etc. Act 2000 asp 6 (Scottish Act) Sch.3 para. (December 31, 2004: as SSI 2004/528)

[13] Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.112(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

[14] Added by Railways Act 1993 (Consequential Modifications) Order 1999/1443 art.2(2) (June 16, 1999)

[15] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(8) (June 30, 2014)

[16] Added by Railways Act 1993 (Consequential Modifications) Order 1999/1443 art.2(3) (June 16, 1999)

England

[98.— Definitions.

(1) The following definitions apply for the interpretation of this Part.

(1A) "Appropriate person" means–

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the National Assembly for Wales.

(2) "Educational institution", in relation to England and Wales, means—

(b) the Open University;

(c) any institution which provides higher education or further education (or both) which is full-time education being an institution which—

(i) is maintained by grants made by the Secretary of State under section 485 of the Education Act 1996; **[** or **]** [2]

(ii) **[…]**[2]

(iii) is maintained by a **[** local authority as defined in section 579(1) of the Education Act 1996 **]** [3] ;

(d) any institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992

(da) any institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992.

(e) any city technology college, city college for the technology of the arts or Academy;

(f) any community, foundation or voluntary school;

(g) any community or foundation special school.

(3) "Educational institution", in relation to Scotland, means—

(a) any university within the meaning of the Education Reform Act 1988 funded by the Universities Funding Council under section 131 of that Act;

(b) the Open University;

(c) any educational establishment (not being a school) within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible;

(cc) any college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 managed by a board of management established under Part I of that Act;

(d) a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992;

(e) a technology academy within the meaning of section 68(1) of the 1989 Act;

(f) a public school as defined in section 135(1) of the Education (Scotland) Act 1980 ("the 1980 Act");

(g) a grant-aided school as defined in section 135(1) of the 1980 Act.

(4) "Joint board", in relation to Scotland, has the meaning given by section 235(1) of the Local Government (Scotland) Act 1973.

(5) "Highway" (and "highway maintainable at the public expense"), **[** "highway authority" **]** [4] "special road" and "trunk road", in relation to England and Wales, have the same meaning as in the Highways Act 1980 and "public road", "special road" and "trunk road", in relation to Scotland, have the same meaning as in the Roads (Scotland) Act 1984.

[(5A) "Litter" includes–

(a) the discarded ends of cigarettes, cigars and like products, and

(b) discarded chewing-gum and the discarded remains of other products designed for chewing.

] [5]

[(5B) "Strategic highways company" means a company for the time being appointed under Part 1 of the Infrastructure Act 2015. **]** [6]

(6) "Statutory undertaker" means —

(a) any person authorised by any enactment to carry on any railway, light railway, tramway or road transport undertaking;

(aa) any operator of a relevant railway asset;

(b) any person authorised by any enactment to carry on any canal, inland navigation, dock, harbour or pier undertaking; or

(c) any relevant airport operator (within the meaning of Part V of the Airports Act 1986).

(7) Subject to subsection (8) below, "relevant railway asset" means–

(a) a transferred network, that is to say a network which was transferred by virtue of a transfer scheme made under section 85 of the Railways Act 1993 from the British Railways Board and vested in the company formed and registered under the Companies Act 1985 and known, at the date of the vesting, as Railtrack PLC,

(b) a station which is used in connection with the provision of services for the carriage of passengers on a transferred network and is operated by a provider of such services or by the operator of such a network, or

(c) a light maintenance depot which is used to provide light maintenance services for rolling stock which is used on a transferred network.

(8) A transferred network shall not cease to be such a network where it is modified by virtue of having any network or part of a network added to or removed from it.

(9) Expressions used in subsections (6)(aa), (7) and (8) above and in Part I of the Railways Act 1993 have the same meaning in those subsections as they have in that Part.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.26 (April 7, 2005)

[2] Repealed by Education Act 2002 c. 32 Sch.22(3) para.1 (November 6, 2006 as SI 2006/2895)

[3] Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.39 (May 5, 2010)

[4] Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.112(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

[5] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.27 (June 7, 2005)

[6] Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.112(3) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Wales

[98.— Definitions.

(1) The following definitions apply for the interpretation of this Part.

(1A) "Appropriate person" means–

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the National Assembly for Wales.

(2) "Educational institution", in relation to England and Wales, means—

(b) the Open University;

(c) any institution which provides higher education or further education (or both) which is full-time education being an institution which—

(i) is maintained by grants made by the Secretary of State under section 485 of the Education Act 1996; **[** or **]** [2]

(ii) **[…]**[2]

(iii) is maintained by a **[** local authority as defined in section 579(1) of the Education Act 1996 **]** [3] ;

(d) any institution within the higher education sector within the meaning of section 91(5) of the Further and Higher Education Act 1992

(da) any institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992.

(e) any city technology college, city college for the technology of the arts or Academy;

(f) any community, foundation or voluntary school;

(g) any community or foundation special school.

(3) "Educational institution", in relation to Scotland, means—

(a) any university within the meaning of the Education Reform Act 1988 funded by the Universities Funding Council under section 131 of that Act;

(b) the Open University;

(c) any educational establishment (not being a school) within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible;

(cc) any college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 managed by a board of management established under Part I of that Act;

(d) a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992;

(e) a technology academy within the meaning of section 68(1) of the 1989 Act;

(f) a public school as defined in section 135(1) of the Education (Scotland) Act 1980 ("the 1980 Act");

(g) a grant-aided school as defined in section 135(1) of the 1980 Act.

(4) "Joint board", in relation to Scotland, has the meaning given by section 235(1) of the Local Government (Scotland) Act 1973.

(5) "Highway" (and "highway maintainable at the public expense"), **[** "highway authority" **]** [4] "special road" and "trunk road", in relation to England and Wales, have the same meaning as in the Highways Act 1980 and "public road", "special road" and "trunk road", in relation to Scotland, have the same meaning as in the Roads (Scotland) Act 1984.

[(5A) "Litter" includes–

(a) the discarded ends of cigarettes, cigars and like products, and

(b) discarded chewing-gum and the discarded remains of other products designed for chewing.

] [5]

[(5B) "Strategic highways company" means a company for the time being appointed under Part 1 of the Infrastructure Act 2015. **]** [6]

(6) "Statutory undertaker" means —

(a) any person authorised by any enactment to carry on any railway, light railway, tramway or road transport undertaking;

(aa) any operator of a relevant railway asset;

(b) any person authorised by any enactment to carry on any canal, inland navigation, dock, harbour or pier undertaking; or

(c) any relevant airport operator (within the meaning of Part V of the Airports Act 1986).

(7) Subject to subsection (8) below, "relevant railway asset" means–

(a) a transferred network, that is to say a network which was transferred by virtue of a transfer scheme made under section 85 of the Railways Act 1993 from the British Railways Board and vested in the company formed and registered under the Companies Act 1985 and known, at the date of the vesting, as Railtrack PLC,

(b) a station which is used in connection with the provision of services for the carriage of passengers on a transferred network and is operated by a provider of such services or by the operator of such a network, or

(c) a light maintenance depot which is used to provide light maintenance services for rolling stock which is used on a transferred network.

(8) A transferred network shall not cease to be such a network where it is modified by virtue of having any network or part of a network added to or removed from it.

(9) Expressions used in subsections (6)(aa), (7) and (8) above and in Part I of the Railways Act 1993 have the same meaning in those subsections as they have in that Part.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.26 (April 7, 2005)

[2] Repealed by Education Act 2002 c. 32 Sch.22(3) para.1 (January 2, 2008 as SI 2007/3611)

[3] Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.39 (May 5, 2010)

[4] Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.112(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

[5] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.27 (June 7, 2005)

[6] Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.112(3) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Amendments Pending

Pt IV s. 98(1A)(b): words substituted by Environment Act 2021 c. 30, Pt 3 s. 68(4) (date to be appointed)

Commencement

Pt IV s. 98(1A): Date not available (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 98(1): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 98(2): February 13, 1991 (SI 1991/96 art. 3)

Pt IV s. 98(3)-(4): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt IV s. 98(5): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 98(5B): Date not available

Pt IV s. 98(6): February 13, 1991 in relation to England and Wales; April 1, 1991 in relation to Scotland (SI 1991/96 art. 3; SI 1991/1042 art. 2(2))

Pt IV s. 98(5A): Date not available

Pt IV s. 98(6A): Date not available

Pt IV s. 98(7)-(9): Date not available

Extent

Pt IV s. 98-(9): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Abandoned trolleys

Law In Force

99.— Powers in relation to abandoned shopping and luggage trolleys.

(1) A local authority may, subject to subsection (3) below, resolve that Schedule 4 to this Act is to apply in its area; and if a local authority does so resolve, that Schedule shall come into force in its area on the day specified in the resolution, which must not be before the expiration of the period of three months beginning with the day on which the resolution is passed.

(2) A local authority shall publish in at least one newspaper circulating in its area a notice that the authority has passed a resolution under this section and indicating the general effect of that Schedule.

(3) It shall be the duty of a local authority, before making any resolution for the application of Schedule 4 to this Act in its area, to consult with the persons or representatives of persons who appear to the authority to be persons who will be affected by the application of that Schedule.

(4) It shall be the duty of a local authority from time to time to consult about the operation of Schedule 4 to this Act with the persons or representatives of persons who appear to be affected by its operation.

(5) In this section "local authority" means —

(a) the council of a district;
(b) the council of a London borough;
(c) the Common Council of the City of London;
(d) the council of the Isles of Scilly; **[…]**[1]
[(dd) in Wales, the council of a county or county borough; and **]** [1]
(e) in Scotland, **[** a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 **]** [2] .

(6) In Schedule 4 to this Act "the local authority" means any local authority which has resolved that that Schedule is to apply in its area.

Notes

[1] Added by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(11) (April 1, 1996)

[2] Words substituted by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(16) (April 1, 1996)

Commencement

Pt IV s. 99: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IV s. 99(1)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART V

AMENDMENT OF THE RADIOACTIVE SUBSTANCES ACT 1960

Repealed

100.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

101. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

102. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

103. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

104. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

105. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

PART VI

GENETICALLY MODIFIED ORGANISMS

Preliminary

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | Scotland | England

Law In Force

Wales

106.— Purpose of Part VI and meaning of "genetically modified organisms" and related expressions.

[(1) This Part has effect for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the escape or release from human control of genetically modified organisms. **]** [1]

(2) In this Part the term "organism" means any acellular, unicellular or multicellular entity (in any form), other than humans **[**, human embryos or human admixed embryos **]** [2] ; and, unless the context otherwise requires, the term also includes any article or substance consisting of or including biological matter .

(3) For the purpose of subsection (2) above "biological matter" means anything (other than an entity mentioned in that subsection) which consists of or includes—

(a) tissue or cells (including gametes or propagules) or subcellular entities, of any kind, capable of replication or of transferring genetic material, or

(b) genes or other genetic material, in any form, which are so capable,

and it is immaterial, in determining if something is or is not an organism or biological matter, whether it is the product of natural or artificial processes of reproduction and, in the case of biological matter, whether it has ever been part of a whole organism.

[(3A) For the purposes of subsection (2) above—

(a) "human embryo" means an embryo within the meaning given in the provisions of the Human Fertilisation and Embryology Act 1990 (apart from section 4A) by virtue of section 1(1) and (6) of that Act, and

(b) "human admixed embryo" has the same meaning as it has in that Act by virtue of section 4A(6) and (11) of that Act.

] [3]

(4) For the purposes of this Part an organism is "genetically modified" if any of the genes or other genetic material in the organism—

[(a) have been artificially modified, or **]** [1]

(b) are inherited or otherwise derived, through any number of replications, from genes or other genetic material (from any source) which were so modified.

[(4A) Genes or other genetic material in an organism are "artificially modified" for the purposes of subsection (4) above if they are altered otherwise than by a process which occurs naturally in mating or natural recombination.

This subsection is subject to subsections (4B) and (4C) below.

(4B) For the purposes of subsection (4) above–

(a) genes or other genetic material shall be taken to be artificially modified if they are altered using such techniques as may be prescribed for the purposes of this paragraph;

(b) genes or other genetic material shall not be regarded as artificially modified by reason only of being altered by the use of such techniques as may be prescribed for the purposes of this paragraph.

(4C) An organism shall be taken not to be a genetically modified organism for the purposes of this Part if it is an organism of a prescribed description.

(4D) In subsections (4B) and (4C) above "prescribed" means prescribed by regulations made by the Secretary of State or, in relation to Wales, the National Assembly for Wales. **]** [1]

(5)-(6) **[…]**[1]

(7) In this Part, where the context permits, a reference to "reproduction", in relation to an organism, includes a reference to its replication or its transferring genetic material.

Notes

1 Amended by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt I reg.4 (December 31, 2002)

2 Words substituted by Human Fertilisation and Embryology Act 2008 c. 22 Pt 3 s.60(2) (October 1, 2009)

3 Added by Human Fertilisation and Embryology Act 2008 c. 22 Pt 3 s.60(3) (October 1, 2009)

Scotland

[106.— Purpose of Part VI and meaning of "genetically modified organisms" and related expressions.

(1) This Part has effect for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the escape or release from human control of genetically modified organisms.

(2) In this Part the term "organism" means any acellular, unicellular or multicellular entity (in any form), other than humans **[**, human embryos or human admixed embryos **]** [2] ; and, unless the context otherwise requires, the term also includes any article or substance consisting of or including biological matter .

(3) For the purpose of subsection (2) above "biological matter" means anything (other than an entity mentioned in that subsection) which consists of or includes—

(a) tissue or cells (including gametes or propagules) or subcellular entities, of any kind, capable of replication or of transferring genetic material, or

(b) genes or other genetic material, in any form, which are so capable,

and it is immaterial, in determining if something is or is not an organism or biological matter, whether it is the product of natural or artificial processes of reproduction and, in the case of biological matter, whether it has ever been part of a whole organism.

[(3A) For the purposes of subsection (2) above—

(a) "human embryo" means an embryo within the meaning given in the provisions of the Human Fertilisation and Embryology Act 1990 (apart from section 4A) by virtue of section 1(1) and (6) of that Act, and

(b) "human admixed embryo" has the same meaning as it has in that Act by virtue of section 4A(6) and (11) of that Act.

] [3]

(4) For the purposes of this Part, subject to subsection (4C) below, an organism is "genetically modified" if any of the genes or other genetic material in the organism—

(a) have been artificially modified, or

(b) are inherited or otherwise derived, through any number of replications, from genes or other genetic material (from any source) which were so modified.

(4A) subject to subsections (4B) and (4C) below, genes or other genetic material in an organism are "artificially modified" for the purposes of subsection (4) above if they are altered otherwise than by a process which occurs naturally in mating or natural recombination.

(4B) For the purposes of subsection (4) above–

(a) genes or other genetic material shall be taken to be artificially modified if they are altered using such techniques as may be prescribed for the purposes of this paragraph;

(b) genes or other genetic material shall not be regarded as artificially modified by reason only of being altered by the use of such techniques as may be prescribed for the purposes of this paragraph.

(4C) An organism shall be taken not to be a genetically modified organism for the purposes of this Part if it is an organism of a prescribed description.

(4D) In subsections (4B) and (4C) above, "prescribed" means prescribed by regulations made by the Scottish Ministers.

(5) [...]

(6) [...]

(7) In this Part, where the context permits, a reference to "reproduction", in relation to an organism, includes a reference to its replication or its transferring genetic material.

] [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002/541 (Scottish SI) Pt I reg.3 (December 5, 2002)

[2] Words substituted by Human Fertilisation and Embryology Act 2008 c. 22 Pt 3 s.60(2) (October 1, 2009)

[3] Added by Human Fertilisation and Embryology Act 2008 c. 22 Pt 3 s.60(3) (October 1, 2009)

Westlaw UK

[106.— Purpose of Part VI and meaning of "genetically modified organisms" and related expressions.

(1) This Part has effect for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the escape or release from human control of genetically modified organisms.

(2) In this Part the term "organism" means any acellular, unicellular or multicellular entity (in any form), other than humans **[**, human embryos or human admixed embryos**]**[2] ; and, unless the context otherwise requires, the term also includes any article or substance consisting of or including biological matter .

(3) For the purpose of subsection (2) above "biological matter" means anything (other than an entity mentioned in that subsection) which consists of or includes—

(a) tissue or cells (including gametes or propagules) or subcellular entities, of any kind, capable of replication or of transferring genetic material, or

(b) genes or other genetic material, in any form, which are so capable,

and it is immaterial, in determining if something is or is not an organism or biological matter, whether it is the product of natural or artificial processes of reproduction and, in the case of biological matter, whether it has ever been part of a whole organism.

[(3A) For the purposes of subsection (2) above—

(a) "human embryo" means an embryo within the meaning given in the provisions of the Human Fertilisation and Embryology Act 1990 (apart from section 4A) by virtue of section 1(1) and (6) of that Act, and

(b) "human admixed embryo" has the same meaning as it has in that Act by virtue of section 4A(6) and (11) of that Act.

][3]

(4) For the purposes of this Part an organism is "genetically modified" if any of the genes or other genetic material in the organism—

(a) have been artificially modified, or

(b) are inherited or otherwise derived, through any number of replications, from genes or other genetic material (from any source) which were so modified.

(4A) Genes or other genetic material in an organism are "artificially modified" for the purposes of subsection (4) above if they are altered otherwise than by a process which occurs naturally in mating or natural recombination.
This subsection is subject to subsections (4B) and (4C) below.

(4B) For the purposes of subsection (4) above—

(a) genes or other genetic material shall be taken to be artificially modified if they are altered using such techniques as may be prescribed for the purposes of this paragraph;

(b) genes or other genetic material shall not be regarded as artificially modified by reason only of being altered by the use of such techniques as may be prescribed for the purposes of this paragraph.

(4C) An organism shall be taken not to be a genetically modified organism for the purposes of this Part if it is an organism of a prescribed description.

(4D) In subsections (4B) and (4C) above "prescribed" means prescribed by regulations made by the Secretary of State.

(5) [...]

(6) [...]

(7) In this Part, where the context permits, a reference to "reproduction", in relation to an organism, includes a reference to its replication or its transferring genetic material.
] [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) Regulations 2002/2443 Pt I reg.3 (October 17, 2002)

[2] Words substituted by Human Fertilisation and Embryology Act 2008 c. 22 Pt 3 s.60(2) (October 1, 2009)

[3] Added by Human Fertilisation and Embryology Act 2008 c. 22 Pt 3 s.60(3) (October 1, 2009)

Commencement

Pt VI s. 106(1)-(3): February 1, 1993 (SI 1992/3253 art. 3; SI 1991/1042 art. 2(1))

Pt VI s. 106(3A): Date not available

Pt VI s. 106(4): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 106(4A)-(4D): Date not available

Pt VI s. 106(5): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 106(6)-(7): February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 106(1)-(3)(b), (4)-(4)(b), (5)-(7): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Pt VI s. 106(3A)-(3A)(b), (4A)-(4D): United Kingdom

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | Scotland | England

Law In Force

Wales

107.— Meaning of "damage to the environment", "control" and related expressions in Part VI.

(1) The following provisions have effect for the interpretation of this Part.

[(2) The "environment" includes land, air and water and living organisms supported by any of those media. **]** [1]

(3) "Damage to the environment" is caused by the presence in the environment of genetically modified organisms which have (or of a single such organism which has) escaped or been released from a person's control and are (or is) capable of causing harm **[…]**[1] .

(4) An organism shall be regarded as present in the environment notwithstanding that it is present in or on any human or other organism, or any other thing, which is itself present in the environment.

(5) Genetically modified organisms present in the environment are capable of causing harm if—

(a) they are individually capable, or are present in numbers such that together they are capable, of causing harm; or

(b) they are able to produce descendants which will be capable, or which will be present in numbers such that together they will be capable, of causing harm;

and a single organism is capable of causing harm either if it is itself capable of causing harm or if it is able to produce descendants which will be so capable.

[(6) "Harm" means adverse effects as regards the health of humans or the environment. **]** [1]

(7) "Harmful" and "harmless" mean respectively, in relation to genetically modified organisms, their being capable or their being incapable of causing harm.

(8) The Secretary of State may by regulations provide, in relation to genetically modified organisms of any description specified in the regulations, that—

(a) the capacity of those organisms for causing harm of any description so specified, or

(b) harm of any description so specified,

shall be disregarded for such purposes of this Part as may be so specified.

[(9) Organisms of any description are under the "control" of a person where he keeps them contained by measures designed to limit their contact with humans and the environment and to prevent or minimise the risk of harm. **]** [1]

(10) An organism under a person's control is "released" if he deliberately causes or permits it to cease to be under his control or the control of any other person and to enter the environment; and such an organism "escapes" if, otherwise than by being released, it ceases to be under his control or that of any other person and enters the environment.

[(11) Genetically modified organisms of any description are "marketed" by a person when products consisting of or including such organisms are placed on the market by being made available to other persons, whether or not for consideration. **]** [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt I reg.5 (December 31, 2002)

Scotland

[107.— Meaning of "damage to the environment", "control" and related expressions in Part VI.

(1) The following provisions have effect for the interpretation of this Part.

(2) The “environment” includes land, air and water and the living organisms supported by any of those media.

(3) “Damage to the environment” is caused by the presence in the environment of genetically modified organisms which have (or of a single such organism which has) escaped or been released from a person's control and are (or is) capable of causing harm.

(4) An organism shall be regarded as present in the environment notwithstanding that it is present in or on any human or other organism, or any other thing, which is itself present in the environment.

(5) Genetically modified organisms present in the environment are capable of causing harm if—

(a) they are individually capable, or are present in numbers such that together they are capable, of causing harm; or

(b) they are able to produce descendants which will be capable, or which will be present in numbers such that together they will be capable, of causing harm;

and a single organism is capable of causing harm either if it is itself capable of causing harm or if it is able to produce descendants which will be so capable.

(6) “Harm” means adverse effects as regards the health of humans or the environment.

(7) “Harmful” and “harmless” mean respectively, in relation to genetically modified organisms, their being capable or their being incapable of causing harm.

(8) The Secretary of State may by regulations provide, in relation to genetically modified organisms of any description specified in the regulations, that—

(a) the capacity of those organisms for causing harm of any description so specified, or

(b) harm of any description so specified,

shall be disregarded for such purposes of this Part as may be so specified.

(9) Organisms of any description are under the “control” of a person where that person keeps them contained by specific measure designed to limit their contact with humans and the environment and to prevent or minimise the risk of harm.

(10) An organism under a person's control is “released” if he deliberately causes or permits it to cease to be under his control or the control of any other person and to enter the environment; and such an organism “escapes” if, otherwise than by being released, it ceases to be under his control or that of any other person and enters the environment.

(11) Genetically modified organisms of any description are “marketed” when products consisting of or including such organisms are placed on the market by being made available to other persons, whether or not for consideration.

] [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002/541 (Scottish SI) Pt I reg.4 (December 5, 2002)

England

[107.— Meaning of "damage to the environment", "control" and related expressions in Part VI.

(1) The following provisions have effect for the interpretation of this Part.

(2) The "environment" includes land, air and water and living organisms supported by any of those media.

(3) "Damage to the environment" is caused by the presence in the environment of genetically modified organisms which have (or of a single such organism which has) escaped or been released from a person's control and are (or is) capable of causing harm.

(4) An organism shall be regarded as present in the environment notwithstanding that it is present in or on any human or other organism, or any other thing, which is itself present in the environment.

(5) Genetically modified organisms present in the environment are capable of causing harm if—

(a) they are individually capable, or are present in numbers such that together they are capable, of causing harm; or

(b) they are able to produce descendants which will be capable, or which will be present in numbers such that together they will be capable, of causing harm;

and a single organism is capable of causing harm either if it is itself capable of causing harm or if it is able to produce descendants which will be so capable.

(6) "Harm" means adverse effects as regards the health of humans or the environment.

(7) "Harmful" and "harmless" mean respectively, in relation to genetically modified organisms, their being capable or their being incapable of causing harm.

(8) The Secretary of State may by regulations provide, in relation to genetically modified organisms of any description specified in the regulations, that—

(a) the capacity of those organisms for causing harm of any description so specified, or

(b) harm of any description so specified,

shall be disregarded for such purposes of this Part as may be so specified.

(9) Organisms of any description are under the "control" of a person where he keeps them contained by measures designed to limit their contact with humans and the environment and to prevent or minimise the risk of harm.

(10) An organism under a person's control is "released" if he deliberately causes or permits it to cease to be under his control or the control of any other person and to enter the environment; and such an organism "escapes" if, otherwise than by being released, it ceases to be under his control or that of any other person and enters the environment.

(11) Genetically modified organisms of any description are "marketed" by a person when products consisting of or including such organisms are placed on the market by being made available to other persons, whether or not for consideration.

] [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) Regulations 2002/2443 Pt I reg.4 (October 17, 2002)

Commencement

Pt VI s. 107(1)-(7): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 107(8): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 107(9)-(11): February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 107(1)-(11): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

General controls

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

108.— Risk assessment and notification requirements.

(1) Subject to subsections (2) and (7) below, no person shall import or acquire, release or market any genetically modified organisms unless, before doing that act—

(a) he has carried out an assessment of any risks there are (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition or, as the case may be, to release or market them) of damage to the environment being caused as a result of doing that act; and

(b) in such cases and circumstances as may be prescribed, he has given the Secretary of State such notice of his intention of doing that act and such information as may be prescribed.

(2) Subsection (1) above does not apply to a person proposing to do an act mentioned in that subsection who is required under section 111(1)(a) below to have a consent before doing that act.

(3) Subject to subsections (4) and (7) below, a person who is keeping genetically modified organisms shall, in such cases or circumstances and at such times or intervals as may be prescribed—

(a) carry out an assessment of any risks there are of damage to the environment being caused as a result of his continuing to keep them;

(b) give the Secretary of State notice of the fact that he is keeping the organisms and such information as may be prescribed.

(4) Subsection (3) above does not apply to a person who is keeping genetically modified organisms and is required under section 111(2) below to have a consent authorising him to continue to keep the organisms.

(5) It shall be the duty of a person who carries out an assessment under subsection (1)(a) or (3)(a) above to keep, for the prescribed period, such a record of the assessment as may be prescribed.

(6) A person required by subsection (1)(b) or (3)(b) above to give notice to the Secretary of State shall give the Secretary of State such further information as the Secretary of State may by notice in writing require.

(7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State **[**, or by the Secretary of State and the Food Standards Agency acting jointly,**]**[1] of exemptions to particular persons or classes of person, from the requirements of subsection (1) or (3) above in such cases or circumstances, and to such extent, as may be prescribed.

(8) The Secretary of State may at any time—

(a) give directions to a person falling within subsection (1) above requiring that person to apply for a consent before doing the act in question; or

(b) give directions to a person falling within subsection (3) above requiring that person, before such date as may be specified in the direction, to apply for a consent authorising him to continue keeping the organisms in question;

and a person given directions under paragraph (a) above shall then, and a person given directions under paragraph (b) above shall from the specified date, be subject to section 111 below in place of the requirements of this section.

(9) Regulations under this section may—

(a) prescribe the manner in which assessments under subsection (1) or (3) above are to be carried out and the matters which must be investigated and assessed;

(b) prescribe minimum periods of notice between the giving of a notice under subsection (1)(b) above and the doing of the act in question;

(c) make provision allowing the Secretary of State to shorten or to extend any such period;

(d) prescribe maximum intervals at which assessments under subsection (3)(a) above must be carried out;

and the regulations may make different provision for different cases and different circumstances.

(10) In this section "prescribed" means prescribed by the Secretary of State in regulations under this section.

Notes

[1] Words added by Food Standards Act 1999 c. 28 Sch.3(III) para.17 (April 1, 2000)

Scotland

[108.— Risk assessment and notification requirements.

(1) Subject to subsections (2) and (7) below, no person shall import or acquire, release or market any genetically modified organisms unless, before doing that act—

(a) he has carried out an assessment of any risks there are (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition or, as the case may be, to release or market them) of damage to the environment being caused as a result of doing that act; and

(b) in such cases and circumstances as may be prescribed, he has given the Secretary of State such notice of his intention of doing that act and such information as may be prescribed.

(2) Subsection (1) above does not apply to a person proposing to do an act mentioned in that subsection who is required under section 111(1)(a) below to have a consent before doing that act.

(3) Subject to subsections (4) and (7) below, a person who is keeping genetically modified organisms shall, in such cases or circumstances and at such times or intervals as may be prescribed—

(a) carry out an assessment of any risks there are of damage to the environment being caused as a result of his continuing to keep them;

(b) give the Secretary of State notice of the fact that he is keeping the organisms and such information as may be prescribed.

(4) Subsection (3) above does not apply to a person who is keeping genetically modified organisms and is required under section 111(2) below to have a consent authorising him to continue to keep the organisms.

(5) It shall be the duty of a person who carries out an assessment under subsection (1)(a) or (3)(a) above to keep, for the prescribed period, such a record of the assessment as may be prescribed.

(6) A person required by subsection (1)(b) or (3)(b) above to give notice to the Secretary of State shall give the Secretary of State such further information as the Secretary of State may by notice in writing require.

(7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State, or by the Secretary of State and the Food Standards Agency acting jointly, of exemptions to particular persons or classes of person, from the requirements of subsection (1) or (3) above in such cases or circumstances, and to such extent, as may be prescribed.

(8) The Secretary of State may at any time—

(a) give directions to a person falling within subsection (1) above requiring that person to apply for a consent before doing the act in question; or

(b) give directions to a person falling within subsection (3) above requiring that person, before such date as may be specified in the direction, to apply for a consent authorising him to continue keeping the organisms in question;

and a person given directions under paragraph (a) above shall then, and a person given directions under paragraph (b) above shall from the specified date, be subject to section 111 below in place of the requirements of this section.

(9) Regulations under this section may—

(a) prescribe the manner in which assessments under subsection (1) or (3) above are to be carried out and the matters which must be investigated and assessed;

(b) prescribe minimum periods of notice between the giving of a notice under subsection (1)(b) above and the doing of the act in question;

(c) make provision allowing the Secretary of State to shorten or to extend any such period;

(d) prescribe maximum intervals at which assessments under subsection (3)(a) above must be carried out;

and the regulations may make different provision for different cases and different circumstances.

(10) In this section “prescribed” means prescribed by the Secretary of State in regulations under this section.

(11) In the application of this section to Scotland, the reference in subsection (7) to the Food Standards Agency is to be read as a reference to Food Standards Scotland.
][1]

Notes

[1] Added by Food (Scotland) Act 2015 asp 1 (Scottish Act) Sch.1 para.4(2) (April 1, 2015)

Commencement

Pt VI s. 108(1)(a): February 1, 1993 for purposes specified in SI 1991/3253 art.3; not yet in force otherwise (SI 1992/3253 art. 3)

Pt VI s. 108(1)(b): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 108(2): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 108(3)(a): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 108(3)(b): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 108(4): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 108(5): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 108(6): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 108(7): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 108(8): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 108(9): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 108(10): January 1, 1993 (SI 1992/3253 art. 2)

Pt VI s. 108(11): Date not available

Extent

Pt VI s. 108(1)-(10): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Not Yet In Force

109.— General duties relating to importation, acquisition, keeping, release or marketing of organisms.

(1) A person who—

(a) is proposing to import or acquire any genetically modified organisms, or

(b) is keeping any such organisms, or

(c) is proposing to release or market any such organisms,

shall, subject to subsection (5) below, be subject to the duties specified in subsection (2), (3) or (4) below, as the case may be.

(2) A person who proposes to import or acquire genetically modified organisms—

(a) shall take all reasonable steps to identify, by reference to the nature of the organisms and the manner in which he intends to keep them (including any precautions to be taken against their escaping or causing damage to the environment), what risks there are of damage to the environment being caused as a result of their importation or acquisition; and

(b) shall not import or acquire the organisms if it appears that, despite any precautions which can be taken, there is a risk of damage to the environment being caused as a result of their importation or acquisition.

(3) A person who is keeping genetically modified organisms—

(a) shall take all reasonable steps to keep himself informed of any damage to the environment which may have been caused as a result of his keeping the organisms and to identify what risks there are of damage to the environment being caused as a result of his continuing to keep them;

(b) shall cease keeping the organisms if, despite any additional precautions which can be taken, it appears, at any time, that there is a risk of damage to the environment being caused as a result of his continuing to keep them; and

(c) shall use the best available techniques not entailing excessive cost for keeping the organisms under his control and for preventing any damage to the environment being caused as a result of his continuing to keep the organisms;

and where a person is required by paragraph (b) above to cease keeping the organisms he shall dispose of them as safely and as quickly as practicable and paragraph (c) above shall continue to apply until he has done so.

(4) A person who proposes to release genetically modified organisms—

(a) shall take all reasonable steps to keep himself informed, by reference to the nature of the organisms and the extent and manner of the release (including any precautions to be taken against their causing damage to the environment), what risks there are of damage to the environment being caused as a result of their being released;

(b) shall not release the organisms if it appears that, despite the precautions which can be taken, there is a risk of damage to the environment being caused as a result of their being released; and

(c) subject to paragraph (b) above, shall use the best available techniques not entailing excessive cost for preventing any damage to the environment being caused as a result of their being released;

and this subsection applies, with the necessary modifications, to a person proposing to market organisms as it applies to a person proposing to release organisms.

(5) This section does not apply—

(a) to persons proposing to import or acquire, to release or to market any genetically modified organisms, in cases or circumstances where, under section 108 above, they are not required to carry out a risk assessment before doing that act;

(b) to persons who are keeping any genetically modified organisms and who—

(i) were not required under section 108 above to carry out a risk assessment before importing or acquiring them;

(ii) have not been required under that section to carry out a risk assessment in respect of the keeping of those organisms since importing or acquiring them; or

(c) to holders of consents, in the case of acts authorised by those consents.

Commencement

Pt VI s. 109: Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Extent

Pt VI s. 109(1)-(5)(c): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Partially In Force

110.— Prohibition notices.

(1) The Secretary of State may serve a notice under this section (a "prohibition notice") on any person he has reason to believe—

(a) is proposing to import or acquire, release or market any genetically modified organisms; or

(b) is keeping any such organisms;

if he is of the opinion that doing any such act in relation to those organisms or continuing to keep them, as the case may be, would involve a risk of causing damage to the environment.

(2) A prohibition notice may prohibit a person from doing an act mentioned in subsection (1)(a) above in relation to any genetically modified organisms or from continuing to keep them; and the prohibition may apply in all cases or circumstances or in such cases or circumstances as may be specified in the notice.

(3) A prohibition notice shall—

(a) state that the Secretary of State is, in relation to the person on whom it is served, of the opinion mentioned in subsection (1) above;

(b) specify what is, or is to be, prohibited by the notice; and

(c) if the prohibition is not to be effective on being served, specify the date on which the prohibition is to take effect;

and a notice may be served on a person notwithstanding that he may have a consent authorising any act which is, or is to be, prohibited by the notice.

(4) Where a person is prohibited by a prohibition notice from continuing to keep any genetically modified organisms, he shall dispose of them as quickly and safely as practicable or, if the notice so provides, as may be specified in the notice.

(5) The Secretary of State may at any time withdraw a prohibition notice served on any person by notice given to that person.

Commencement

Pt VI s. 110: February 1, 1993 for purposes specified in SI 1992/3253 art.3; not yet in force otherwise (SI 1992/3253 art. 3)

Extent

Pt VI s. 110(1)-(5): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Consents

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | Scotland | England

Partially In Force

Wales

111.— Consents required by certain persons.

(1) Subject to subsection (7) below, no person shall import or acquire, release or market any genetically modified organisms—

(a) in such cases or circumstances as may be prescribed in relation to that act, or

(b) in any case where he has been given directions under section 108(8)(a) above,

except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations and conditions to which the consent is subject.

(2) Subject to subsection (7) below, no person who has imported or acquired any genetically modified organisms (whether under a consent or not) shall continue to keep the organisms—

(a) in such cases or circumstances as may be prescribed, after the end of the prescribed period, or

(b) if he has been given directions under section 108(8)(b) above, after the date specified in the directions,

except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations or conditions to which the consent is subject.

(3) A person who is required under subsection (2) above to cease keeping any genetically modified organisms shall dispose of them as quickly and safely as practicable.

(4) An application for a consent must contain such information and be made and advertised in such manner as may be prescribed and shall be accompanied by the fee required under section 113 below.

(5) The applicant shall, in prescribed circumstances, give such notice of his application to such persons as may be prescribed.

(6) The Secretary of State may by notice to the applicant require him to furnish such further information specified in the notice, within such period as may be so specified, as he may require for the purpose of determining the application; and if the applicant fails to furnish the information within the specified period the Secretary of State may refuse to proceed with the application. **[** A notice under this subsection must state the reasons for requiring the further information specified in the notice. **]** [1]

[(6A) Where an applicant for consent for releasing or marketing genetically modified organisms becomes aware, before his application is either granted or rejected, of any new information with regard to any risks there are of damage to the environment being caused as a result of the organisms being released or marketed, he shall notify the Secretary of State of that new information forthwith. **]** [2]

(7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State **[**, or by the Secretary of State and the Food Standards Agency acting jointly, **]** [3] of exemptions to particular persons or classes of person, from—

(a) any requirement under subsection (1) or (2) above to have a consent, or

(b) any of the requirements to be fulfilled under the regulations by an applicant for a consent,

in such cases or circumstances as may be prescribed.

(8) Where an application for a consent is duly made to him, the Secretary of State may grant the consent subject to such limitations and conditions as may be imposed under section 112 below or he may refuse the application.

(9) The conditions attached to a consent may include conditions which are to continue to have effect notwithstanding that the holder has completed or ceased the act or acts authorised by the consent.

(10) The Secretary of State may at any time, by notice given to the holder of a consent, revoke the consent or vary the consent (whether by attaching new limitations and conditions or by revoking or varying any limitations and conditions to which it is at that time subject).

(11) Regulations under this section may make different provision for different cases and different circumstances; and in this section "prescribed" means prescribed in regulations under this section.

Notes

1 Words inserted by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt IV reg.20(1) (December 31, 2002)

2 Added by Genetically Modified Organisms (Deliberate Release) Regulations 1992/3280 Pt IV reg.13(1) (February 1, 1993)

3 Words added by Food Standards Act 1999 c. 28 Sch.3(III) para.17 (April 1, 2000)

Scotland

[111.— Consents required by certain persons.

(1) Subject to subsection (7) below, no person shall import or acquire, release or market any genetically modified organisms—

(a) in such cases or circumstances as may be prescribed in relation to that act, or

(b) in any case where he has been given directions under section 108(8)(a) above,

except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations and conditions to which the consent is subject.

(2) Subject to subsection (7) below, no person who has imported or acquired any genetically modified organisms (whether under a consent or not) shall continue to keep the organisms—

(a) in such cases or circumstances as may be prescribed, after the end of the prescribed period, or

(b) if he has been given directions under section 108(8)(b) above, after the date specified in the directions,

except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations or conditions to which the consent is subject.

(3) A person who is required under subsection (2) above to cease keeping any genetically modified organisms shall dispose of them as quickly and safely as practicable.

(4) An application for a consent must contain such information and be made and advertised in such manner as may be prescribed and shall be accompanied by the fee required under section 113 below.

(5) The applicant shall, in prescribed circumstances, give such notice of his application to such persons as may be prescribed.

(6) The Secretary of State may by notice to the applicant require him to furnish such further information specified in the notice, within such period and in such form and manner as may be so specified, as he may require for the purpose of determining the application; and if the applicant fails to furnish the information within the specified period and in the specified form and manner the Secretary of State may refuse to proceed with the application.

(6ZA) A notice under subsection (6) must state the reasons for requiring the further information specified in the notice.

(6A) Where an applicant for consent for releasing or marketing genetically modified organisms becomes aware, before his application is either granted or rejected, of any new information with regard to any risks there are of damage to the environment being caused as a result of the organisms being released or marketed, he shall notify the Secretary of State of that new information forthwith.

(7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State, or by the Secretary of State and the Food Standards Agency acting jointly, of exemptions to particular persons or classes of person, from—

(a) any requirement under subsection (1) or (2) above to have a consent, or

(b) any of the requirements to be fulfilled under the regulations by an applicant for a consent,

in such cases or circumstances as may be prescribed.

(8) Where an application for a consent is duly made to him, the Secretary of State may grant the consent subject to such limitations and conditions as may be imposed under section 112 below or he may refuse the application.

(9) The conditions attached to a consent may include conditions which are to continue to have effect notwithstanding that the holder has completed or ceased the act or acts authorised by the consent.

(10) The Secretary of State may at any time, by notice given to the holder of a consent, revoke the consent or vary the consent (whether by attaching new limitations and conditions or by revoking or varying any limitations and conditions to which it is at that time subject).

(11) Regulations under this section may make different provision for different cases and different circumstances; and in this section “prescribed” means prescribed in regulations under this section.

[(12) In the application of this section to Scotland, the reference in subsection (7) to the Food Standards Agency is to be read as a reference to Food Standards Scotland. **]** [2]
] [1]

Notes

[1] Inserted by Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002/541 (Scottish SI) Pt IV reg.19 (December 5, 2002)

[2] Added by Food (Scotland) Act 2015 asp 1 (Scottish Act) Sch.1 para.4(3) (April 1, 2015)

England

[111.— Consents required by certain persons.

(1) Subject to subsection (7) below, no person shall import or acquire, release or market any genetically modified organisms—

(a) in such cases or circumstances as may be prescribed in relation to that act, or

(b) in any case where he has been given directions under section 108(8)(a) above,

except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations and conditions to which the consent is subject.

(2) Subject to subsection (7) below, no person who has imported or acquired any genetically modified organisms (whether under a consent or not) shall continue to keep the organisms—

(a) in such cases or circumstances as may be prescribed, after the end of the prescribed period, or

(b) if he has been given directions under section 108(8)(b) above, after the date specified in the directions,

except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations or conditions to which the consent is subject.

(3) A person who is required under subsection (2) above to cease keeping any genetically modified organisms shall dispose of them as quickly and safely as practicable.

(4) An application for a consent must contain such information and be made and advertised in such manner as may be prescribed and shall be accompanied by the fee required under section 113 below.

(5) The applicant shall, in prescribed circumstances, give such notice of his application to such persons as may be prescribed.

(6) The Secretary of State may by notice to the applicant require him to furnish such further information specified in the notice, within such period as may be so specified, as he may require for the purpose of determining the application; and if the applicant fails to furnish the information within the specified period the Secretary of State may refuse to proceed with the application. A notice under this subsection must state the reasons for requiring the further information specified in the notice.

(6A) Where an applicant for consent for releasing or marketing genetically modified organisms becomes aware, before his application is either granted or rejected, of any new information with regard to any risks there are of damage to the environment being caused as a result of the organisms being released or marketed, he shall notify the Secretary of State of that new information forthwith.

(7) Regulations under this section may provide for exemptions, or for the granting by the Secretary of State, or by the Secretary of State and the Food Standards Agency acting jointly, of exemptions to particular persons or classes of person, from—

(a) any requirement under subsection (1) or (2) above to have a consent, or

(b) any of the requirements to be fulfilled under the regulations by an applicant for a consent,

in such cases or circumstances as may be prescribed.

(8) Where an application for a consent is duly made to him, the Secretary of State may grant the consent subject to such limitations and conditions as may be imposed under section 112 below or he may refuse the application.

(9) The conditions attached to a consent may include conditions which are to continue to have effect notwithstanding that the holder has completed or ceased the act or acts authorised by the consent.

(10) The Secretary of State may at any time, by notice given to the holder of a consent, revoke the consent or vary the consent (whether by attaching new limitations and conditions or by revoking or varying any limitations and conditions to which it is at that time subject).

(11) Regulations under this section may make different provision for different cases and different circumstances; and in this section "prescribed" means prescribed in regulations under this section. **]** [1]

Notes

[1] Words inserted by Genetically Modified Organisms (Deliberate Release) Regulations 2002/2443 Pt IV reg.19(1) (October 17, 2002)

Commencement

Pt VI s. 111(1)-(2): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 111(3): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 111(4)-(5): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 111(6): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 111(6ZA)-(6A): Date not available

Pt VI s. 111(7): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 111(8)-(10): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 111(11): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 111(12): Date not available

Extent

Pt VI s. 111(1)-(11): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | Scotland | England

Partially In Force

Wales

112.— Consents: limitations and conditions.

(1) The Secretary of State may include in a consent such limitations and conditions as he may think fit **[** for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the activity permitted by the consent **]** [1] **[…]**[2] .

(2) Without prejudice to the generality of subsection (1) above, the conditions included in a consent may—

(a) require the giving of notice of any fact to the Secretary of State; or

(b) prohibit or restrict the keeping, releasing or marketing of genetically modified organisms under the consent in specified cases or circumstances;

and where, under any condition, the holder of a consent is required to cease keeping any genetically modified organisms, he shall dispose of them, if no manner is specified in the conditions, as quickly and safely as practicable.

(3) Subject to subsection (6) below, there is implied in every consent for the importation or acquisition of genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition) of any risks there are of damage to the environment being caused as a result of their importation or acquisition; and

(b) if at any time it appears that any such risks are more serious than were apparent when the consent was granted, notify the Secretary of State forthwith.

(4) Subject to subsection (6) below, there is implied in every consent for keeping genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed of any damage to the environment which may have been caused as a result of his keeping the organisms and of any risks there are of such damage being caused as a result of his continuing to keep them;

(b) if at any time it appears that any such risks are more serious than were apparent when the consent was granted, notify the Secretary of State forthwith; and

(c) use the best available techniques not entailing excessive cost for keeping the organisms under his control and for preventing any damage to the environment being caused as a result of his continuing to keep them.

(5) Subject to subsection (6) below, there is implied in every consent for releasing or marketing genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed (by reference to the nature of the organisms and the extent and manner of the release or marketing) of any risks there are of damage to the environment being caused as a result of their being released or, as the case may be, marketed;

[(b) notify the Secretary of State **[** forthwith **]** [1] of–

(i) any new information which becomes available with regard to any risks there are of damage to the environment being so caused, and

(ii) **[…]**[1]

[(iii) any unforeseen event, occurring in connection with a release by him, which might affect the risks there are of damage to the environment being caused as a result of their being released; **]** [1]

] [3]

[(c)

take such measures as are necessary to prevent damage to the environment being caused as a result of the release or, as the case may be, the marketing of the organisms; **]** [1]

[(d) notify the Secretary of State or, in relation to Wales, the National Assembly for Wales of the measures (if any) taken as a result of new information becoming available or an unforeseen event occurring as described in paragraph (b)(iii) above; and

(e) in a case where new information becomes available or an unforeseen event so occurs, revise the information contained in his application for a consent accordingly and supply the revised information to the Secretary of State or, in relation to Wales, the National Assembly for Wales. **]** [1]

(6) The general condition implied into a consent under subsection (3), (4) or (5) above has effect subject to any conditions imposed under subsection (1) above; and the obligations imposed by virtue of subsection (4)(c) or (5)(c) above shall not apply to any aspect of an act authorised by a consent which is regulated by such a condition.

(7) There shall be implied in every consent for keeping, releasing or marketing genetically modified organisms of any description a general condition that the holder of the consent—

(a) shall take all reasonable steps to keep himself informed of developments in the techniques which may be available in his case for preventing damage to the environment being caused as a result of the doing of the act authorised by the consent in relation to organisms of that description; and

(b) if it appears at any time that any better techniques are available to him than is required by any condition included in the consent under subsection (1) above, shall notify the Secretary of State of that fact forthwith.

But this general condition shall have effect subject to any conditions imposed under subsection (1) above.

Notes

1 Amended by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt V reg.30 (December 31, 2002)

2 Words repealed by Environmental Protection Act 1990 (Modification of section 112) Regulations 1992/2617 reg.2 (February 1, 1993)

3 Substituted by Genetically Modified Organisms (Deliberate Release) Regulations 1992/3280 Pt II reg.9 (February 1, 1993)

Scotland

[112.— Consents: limitations and conditions.

(1) The Secretary of State may include in a consent such limitations and conditions as he may think fit for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the activity permitted by the consent.

(2) Without prejudice to the generality of subsection (1) above, the conditions included in a consent may—

(a) require the giving of notice of any fact to the Secretary of State; or

(b) prohibit or restrict the keeping, releasing or marketing of genetically modified organisms under the consent in specified cases or circumstances;

and where, under any condition, the holder of a consent is required to cease keeping any genetically modified organisms, he shall dispose of them, if no manner is specified in the conditions, as quickly and safely as practicable.

(3) Subject to subsection (6) below, there is implied in every consent for the importation or acquisition of genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition) of any risks there are of damage to the environment being caused as a result of their importation or acquisition; and

(b) if at any time it appears that any such risks are more serious than were apparent when the consent was granted, notify the Secretary of State forthwith.

(4) Subject to subsection (6) below, there is implied in every consent for keeping genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed of any damage to the environment which may have been caused as a result of his keeping the organisms and of any risks there are of such damage being caused as a result of his continuing to keep them;

(b) if at any time it appears that any such risks are more serious than were apparent when the consent was granted, notify the Secretary of State forthwith; and

(c) use the best available techniques not entailing excessive cost for keeping the organisms under his control and for preventing any damage to the environment being caused as a result of his continuing to keep them.

(5) Subject to subsection (6) below, there is implied in every consent for releasing or marketing genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed (by reference to the nature of the organisms and the extent and manner of the release or marketing) of any risks there are of damage to the environment being caused as a result of their being released or, as the case may be, marketed;

(b) notify the Secretary of State forthwith of–

(i) any new information which becomes available with regard to any risks there are of damage to the environment being so caused, and

(ii) [...]

(iii) any unforeseen event, occurring in connection with a release by him, which might affect the risks there are of damage to the environment being caused as a result of their being released;

(c) take such measures as are necessary to prevent damage to the environment being caused as a result of the release, or, as the case may be, the marketing of the organisms;

(d) notify the Scottish Ministers forthwith of the measures (if any) taken as a result of new information becoming available or an unforeseen event occurring as described in paragraph (b)(iii); and

(e) in a case where new information becomes available or an unforeseen event so occurs, revise the information contained in his application for a consent accordingly and supply the revised information to the Scottish Ministers in such form and manner as they may specify.

(6) The general condition implied into a consent under subsection (3), (4) or (5) above has effect subject to any conditions imposed under subsection (1) above; and the obligations imposed by virtue of subsection (4)(c) or (5)(c) above shall not apply to any aspect of an act authorised by a consent which is regulated by such a condition.

(7) There shall be implied in every consent for keeping, releasing or marketing genetically modified organisms of any description a general condition that the holder of the consent—

(a) shall take all reasonable steps to keep himself informed of developments in the techniques which may be available in his case for preventing damage to the environment being caused as a result of the doing of the act authorised by the consent in relation to organisms of that description; and

(b) if it appears at any time that any better techniques are available to him than is required by any condition included in the consent under subsection (1) above, shall notify the Secretary of State of that fact forthwith.

But this general condition shall have effect subject to any conditions imposed under subsection (1) above.

] [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002/541 (Scottish SI) Pt V reg.29 (December 5, 2002)

England

[112.— Consents: limitations and conditions.

(1) The Secretary of State may include in a consent such limitations and conditions as he may think fit for the purpose of ensuring that all appropriate measures are taken to avoid damage to the environment which may arise from the activity permitted by the consent.

(2) Without prejudice to the generality of subsection (1) above, the conditions included in a consent may—

(a) require the giving of notice of any fact to the Secretary of State; or

(b) prohibit or restrict the keeping, releasing or marketing of genetically modified organisms under the consent in specified cases or circumstances;

and where, under any condition, the holder of a consent is required to cease keeping any genetically modified organisms, he shall dispose of them, if no manner is specified in the conditions, as quickly and safely as practicable.

(3) Subject to subsection (6) below, there is implied in every consent for the importation or acquisition of genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed (by reference to the nature of the organisms and the manner in which he intends to keep them after their importation or acquisition) of any risks there are of damage to the environment being caused as a result of their importation or acquisition; and

(b) if at any time it appears that any such risks are more serious than were apparent when the consent was granted, notify the Secretary of State forthwith.

(4) Subject to subsection (6) below, there is implied in every consent for keeping genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed of any damage to the environment which may have been caused as a result of his keeping the organisms and of any risks there are of such damage being caused as a result of his continuing to keep them;

(b) if at any time it appears that any such risks are more serious than were apparent when the consent was granted, notify the Secretary of State forthwith; and

(c) use the best available techniques not entailing excessive cost for keeping the organisms under his control and for preventing any damage to the environment being caused as a result of his continuing to keep them.

(5) Subject to subsection (6) below, there is implied in every consent for releasing or marketing genetically modified organisms a general condition that the holder of the consent shall—

(a) take all reasonable steps to keep himself informed (by reference to the nature of the organisms and the extent and manner of the release or marketing) of any risks there are of damage to the environment being caused as a result of their being released or, as the case may be, marketed;

(b) notify the Secretary of State forthwith of–

(i) any new information which becomes available with regard to any risks there are of damage to the environment being so caused, and

(ii) [...]

(iii) any unforeseen event, occurring in connection with a release by him, which might affect the risks there are of damage to the environment being caused as a result of their being released;

(c) take such measures as are necessary to prevent damage to the environment being caused as a result of the release or, as the case may be, the marketing of the organisms.

(d) notify the Secretary of State **[** or, in relation to Wales, the National Assembly for Wales **]** [2] of the measures (if any) taken as a result of new information becoming available or an unforeseen event occurring as described in paragraph (b)(iii) above; and

(e) in a case where new information becomes available or an unforeseen event so occurs, revise the information contained in his application for a consent accordingly and supply the revised information to the Secretary of State **[** or, in relation to Wales, the National Assembly for Wales **]** [2] .

(6) The general condition implied into a consent under subsection (3), (4) or (5) above has effect subject to any conditions imposed under subsection (1) above; and the obligations imposed by virtue of subsection (4)(c) or (5)(c) above shall not apply to any aspect of an act authorised by a consent which is regulated by such a condition.

(7) There shall be implied in every consent for keeping, releasing or marketing genetically modified organisms of any description a general condition that the holder of the consent—

(a) shall take all reasonable steps to keep himself informed of developments in the techniques which may be available in his case for preventing damage to the environment being caused as a result of the doing of the act authorised by the consent in relation to organisms of that description; and

(b) if it appears at any time that any better techniques are available to him than is required by any condition included in the consent under subsection (1) above, shall notify the Secretary of State of that fact forthwith.

But this general condition shall have effect subject to any conditions imposed under subsection (1) above.

] [1]

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) Regulations 2002/2443 Pt V reg.29 (October 17, 2002)

[2] Amended by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt V reg.30 (December 31, 2002)

Commencement

Pt VI s. 112(1)-(2): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 112(3)-(4): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 112(5)-(7): February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 112(1)-(5)(b), (5)(c), (6)-(7)(b): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Pt VI s. 112(5)(b)(i)-(5)(b)(iii), (5)(d)-(5)(e): United Kingdom

---

Law In Force

113.— Fees and charges.

(1) The Secretary of State may, with the approval of the Treasury, make and from time to time revise a scheme prescribing—

(a) fees payable in respect of applications for consents; and

(b) charges payable by persons holding consents in respect of the subsistence of their consents;

and it shall be a condition of any such consent that any applicable prescribed charge is paid in accordance with that scheme.

(2) A scheme under this section may, in particular—

(a) provide for different fees or charges to be payable in different cases or circumstances;

(b) provide for the times at which and the manner in which payments are to be made; and

(c) make such incidental, supplementary and transitional provision as appears to the Secretary of State to be appropriate.

(3) The Secretary of State shall so frame a scheme under this section as to secure, so far as practicable, that the amounts payable under it will be sufficient, taking one financial year with another, to cover the expenditure of the Secretary of State in discharging his functions under this Part in relation to consents.

(4) The Secretary of State shall, on making or revising a scheme under this section, lay a copy of the scheme or of the scheme as revised before each House of Parliament.

[(5) The Scottish Ministers may, with the consent of the Secretary of State, provide in a scheme under this section for any functions under the scheme to be performed by a Minister of the Crown or government department where they consider it expedient to do so in relation to **[** retained EU law which implemented Directive 2001/18/EC of the European Parliament and of the Council[3] **]** [2] **.** **]** [1]

Notes

1 Added by Environmental Protection Act 1990 (Amendment) (Scotland) Regulations 2001/99 (Scottish SI) reg.2 (April 5, 2001)

2 Words substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 OJ No L 106, 17.4.2001, p. 1, as last amended by Commission Directive (EU) 2018/350 (OJ No L 67, 9.3.2018, p. 30).

Commencement

Pt VI s. 113: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt VI s. 113(1)-(4): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Pt VI s. 113(5): United Kingdom

Inspectors

Law In Force

114.— Appointment etc of inspectors.

(1) The Secretary of State may appoint as inspectors, for carrying this Part into effect, such number of persons appearing to him to be qualified for the purpose as he may consider necessary.

(2) The Secretary of State may make to or in respect of any person so appointed such payments by way of remuneration, allowances or otherwise as he may with the approval of the Treasury determine.

(3) An inspector shall not be personally liable in any civil or criminal proceedings for anything done in the purported exercise of any power under section 115 or 117 below if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(4) In England and Wales an inspector, if authorised to do so by the Secretary of State, may **[…]**[1] prosecute before a magistrates' court proceedings for an offence under section 118(1) below.

(5) In this Part "inspector" means, subject to section 125 below, a person appointed as an inspector under subsection (1) above.

Notes

[1] Words repealed by Legal Services Act 2007 c. 29 Sch.23 para.1 (January 1, 2010 as SI 2009/3250)

Commencement

Pt VI s. 114(1)-(3): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 114(4)-(5): February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 114(1)-(5): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Law In Force

115.— Rights of entry and inspection.

(1) An inspector may, on production (if so required) of his authority, exercise any of the powers specified in subsection (3) below for the purposes of the discharge of the functions of the Secretary of State under this Part.

(2) Those powers are exercisable—

(a) in relation to premises—

(i) on which the inspector has reason to believe a person is keeping or has kept any genetically modified organisms, or

(ii) from which he has reason to believe any such organisms have been released or have escaped; and

(b) in relation to premises on which the inspector has reason to believe there may be harmful genetically modified organisms or evidence of damage to the environment caused by genetically modified organisms;

but they are not exercisable in relation to premises used wholly or mainly for domestic purposes.

(3) The powers of an inspector are—

(a) at any reasonable time (or, in a situation in which in his opinion there is an immediate risk of damage to the environment, at any time)—

(i) to enter premises which he has reason to believe it is necessary for him to enter and to take with him any person duly authorised by the Secretary of State and, if the inspector has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and

(ii) to take with him any equipment or materials required for any purpose for which the power of entry is being exercised;

(b) to carry out such tests and inspections (and to make such recordings), as may in any circumstances be necessary;

(c) to direct that any, or any part of, premises which he has power to enter, or anything in or on such premises, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any test or inspection;

(d) to take samples of any organisms, articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;

(e) in the case of anything found in or on any premises which he has power to enter, which appears to him to contain or to have contained genetically modified organisms which have caused or are likely to cause damage to the environment, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary);

(f) in the case of anything mentioned in paragraph (e) above or anything found on premises which he has power to enter which appears to be a genetically modified organism or to consist of or include genetically modified organisms, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—

(i) to examine it and do to it anything which he has power to do under that paragraph;

(ii) to ensure that it is not tampered with before his examination of it is completed; and

(iii) to ensure that it is available for use as evidence in any proceedings for an offence under section 118 below;

(g) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any test or inspection under this subsection to answer (in the absence of persons other than a person nominated to be present and any person whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;

(h) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which are required to be kept under this Part or it is necessary for him to see for the purposes of any test or inspection under this subsection and to inspect, and take copies of, or of any entry in, the records;

(i) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this section;

(j) any other power for the purpose mentioned in subsection (1) above which is conferred by regulations made by the Secretary of State.

(4) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of, and the dealing with, samples under subsection (3)(d) above.

(5) Where an inspector proposes to exercise the power conferred by subsection (3)(e) above, he shall, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.

(6) Before exercising the power conferred by subsection (3)(e) above, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under the power.

(7) Where under the power conferred by subsection (3)(f) above an inspector takes possession of anything found on any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars sufficient to identify what he has seized and stating that he has taken possession of it under that power; and before taking possession under that power of—

(a) any thing that forms part of a batch of similar things, or
(b) any substance,

an inspector shall, if it is practical and safe for him to do so, take a sample of it and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(8) No answer given by a person in pursuance of a requirement imposed under subsection (3)(g) above shall be admissible in evidence—

(a) in any proceedings in England and Wales against that person; or
(b) in any criminal proceedings in Scotland against that person.

(9) The powers conferred by subsection (3)(a), (b), (c), (d), (e) and (h) above shall also be exercisable (subject to subsections (4), (5) and (6) above) by any person authorised for the purpose in writing by the Secretary of State.

(10) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

Commencement

Pt VI s. 115(1)-(3): February 1, 1993 (SI 1992/3253 art. 3; SI 1991/1042 art. 2(1))

Pt VI s. 115(4): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 115(5)-(10): February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 115(1)-(10): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Enforcement powers and offences

Partially In Force

116.— Obtaining of information from persons.

(1) For the purposes of the discharge of his functions under this Part, the Secretary of State may, by notice in writing served on any person who appears to him—

(a) to be involved in the importation, acquisition, keeping, release or marketing of genetically modified organisms; or
(b) to be about to become, or to have been, involved in any of those activities;

require that person to furnish such relevant information available to him as is specified in the notice, in such form and within such period following service of the notice as is so specified.

(2) For the purposes of this section "relevant information" means information concerning any aspects of the activities in question, including any damage to the environment which may be or have been caused thereby; and the discharge by the Secretary of State of **[** a function under retained

EU law or **]**[1] an obligation of the United Kingdom under **[…]**[2] any international agreement concerning the protection of the environment from harm caused by genetically modified organisms shall be treated as a function of his under this Part .

Notes

[1] Words inserted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(5)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Words repealed by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(5)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Pt VI s. 116: February 1, 1993 for purposes specified in SI 1992/3253 art.3; not yet in force otherwise (SI 1992/3253 art. 3)

Extent

Pt VI s. 116(1)-(2): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Law In Force

117.— Power to deal with cause of imminent danger of damage to the environment.

(1) Where, in the case of anything found by him on any premises which he has power to enter, an inspector has reason to believe that it is a genetically modified organism or that it consists of or includes genetically modified organisms and that, in the circumstances in which he finds it, it is a cause of imminent danger of damage to the environment, he may seize it and cause it to be rendered harmless (whether by destruction, by bringing it under proper control or otherwise).

(2) Before there is rendered harmless under this section—

(a) any thing that forms part of a batch of similar things, or

(b) any substance,

the inspector shall, if it is practicable and safe for him to do so, take a sample of it and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(3) As soon as may be after anything has been seized and rendered harmless under this section, the inspector shall prepare and sign a written report giving particulars of the circumstances in which it was seized and so dealt with by him, and shall—

(a) give a signed copy of the report to a responsible person at the premises where it was found by him; and

(b) unless that person is the owner of it, also serve a signed copy of the report on the owner;

and if, where paragraph (b) above applies, the inspector cannot after reasonable inquiry ascertain the name or address of the owner, the copy may be served on him by giving it to the person to whom a copy was given under paragraph (a) above.

Commencement

Pt VI s. 117: February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 117(1)-(3)(b): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially In Force With Amendments Pending

Scotland

118.— Offences.

(1) It is an offence for a person—

(a) to do anything in contravention of section 108(1) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(b) to fail to comply with section 108(3) above when keeping something which is, and which he knows or has reason to believe is, a genetically modified organism;

(c) to do anything in contravention of section 111(1) or (2) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(d) to fail to comply with any requirement of subsection (2), (3)(a), (b) or (c) or (4) of section 109 above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(e) to fail, without reasonable excuse, to comply with section 108(5) or (6) **[** or section 111(6A) **]** [1] above;

(f) to contravene any prohibition imposed on him by a prohibition notice;

(g) without reasonable excuse, to fail to comply with any requirement imposed under section 115 above;

(h) to prevent any other person from appearing before or from answering any question to which an inspector may, by virtue of section 115(3) above, require an answer;

(i) intentionally to obstruct an inspector in the exercise or performance of his powers or duties, other than his powers or duties under section 117 above;

(j) intentionally to obstruct an inspector in the exercise of his powers or duties under section 117 above;

(k) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under section 116 above;

(l) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

(i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or

(ii) for the purpose of obtaining the grant of a consent to himself or any other person or the variation of a consent;

(m) intentionally to make a false entry in any record required to be kept under section 108 or 111 above;

(n) with intent to deceive, to forge or use a document purporting to be issued under section 111 above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;

(o) falsely to pretend to be an inspector.

(2) It shall be a defence for a person charged with an offence under paragraph (a), (b), (c), (d) or (f) of subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) A person guilty of an offence under paragraph (c) or (d) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(4) A person guilty of an offence under paragraph (f) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(5) A person guilty of an offence under paragraph (a) or (b) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(6) A person guilty of an offence under paragraph (e), (j), (k), (l), (m) or (n) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(7) A person guilty of an offence under paragraph (g), (h) or (i) of subsection (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both.

(8) A person guilty of an offence under paragraph (o) of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) Where a person is convicted of an offence under paragraph (b) of subsection (1) above in respect of his keeping any genetically modified organism, then, if the contravention in respect of which he was convicted is continued after he was convicted he shall be guilty of a further offence and liable on summary conviction to a fine of one-fifth of level 5 on the standard scale for each day on which the contravention is so continued.

(10) Proceedings in respect of an offence under this section shall not be instituted in England and Wales except by the Secretary of State or with the consent of the Director of Public Prosecutions or in Northern Ireland except with the consent of the Director of Public Prosecutions for Northern Ireland.

Notes

[1] Words added by Genetically Modified Organisms (Deliberate Release) Regulations 1992/3280 Pt IV reg.13(2) (February 1, 1993)

England and Wales

[118.— Offences.

(1) It is an offence for a person—

(a) to do anything in contravention of section 108(1) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(b) to fail to comply with section 108(3) above when keeping something which is, and which he knows or has reason to believe is, a genetically modified organism;

(c) to do anything in contravention of section 111(1) or (2) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(d) to fail to comply with any requirement of subsection (2), (3)(a), (b) or (c) or (4) of section 109 above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(e) to fail, without reasonable excuse, to comply with section 108(5) or (6) or section 111(6A) above;

(f) to contravene any prohibition imposed on him by a prohibition notice;

(g) without reasonable excuse, to fail to comply with any requirement imposed under section 115 above;

(h) to prevent any other person from appearing before or from answering any question to which an inspector may, by virtue of section 115(3) above, require an answer;

(i) intentionally to obstruct an inspector in the exercise or performance of his powers or duties, other than his powers or duties under section 117 above;

(j) intentionally to obstruct an inspector in the exercise of his powers or duties under section 117 above;

(k) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under section 116 above;

(l) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

(i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or

(ii) for the purpose of obtaining the grant of a consent to himself or any other person or the variation of a consent;

(m) intentionally to make a false entry in any record required to be kept under section 108 or 111 above;

(n) with intent to deceive, to forge or use a document purporting to be issued under section 111 above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;

(o) falsely to pretend to be an inspector.

(2) It shall be a defence for a person charged with an offence under paragraph (a), (b), (c), (d) or (f) of subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) A person guilty of an offence under paragraph (c) or (d) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(4) A person guilty of an offence under paragraph (f) of subsection (1) above shall be liable—

(a) on summary conviction, to **[** a fine **]** [2] or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(5) A person guilty of an offence under paragraph (a) or (b) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(6) A person guilty of an offence under paragraph (e), (j), (k), (l), (m) or (n) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(7) A person guilty of an offence under paragraph (g), (h) or (i) of subsection (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both.

(8) A person guilty of an offence under paragraph (o) of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) Where a person is convicted of an offence under paragraph (b) of subsection (1) above in respect of his keeping any genetically modified organism, then, if the contravention in respect of which he was convicted is continued after he was convicted he shall be guilty of a further offence and liable on summary conviction to a fine of **[** one-fifth of the greater of £5,000 or level 4 on the standard scale **]** [3] for each day on which the contravention is so continued.

(10) Proceedings in respect of an offence under this section shall not be instituted in England and Wales except by the Secretary of State or with the consent of the Director of Public Prosecutions or in Northern Ireland except with the consent of the Director of Public Prosecutions for Northern Ireland.

] [1]

Notes

[1] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(6)(a) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

[2] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.4(1) para.22(6)(b) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))

[3] Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(1) para.6(6) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))

Amendments Pending

Pt VI s. 118(7): words repealed by Criminal Justice Act 2003 c. 44, Sch. 37(9) para. 1 (date to be appointed)

Commencement

Pt VI s. 118(1)(a): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 118(1)(b): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 118(1)(c): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 118(1)(d): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt VI s. 118(1)(e)-(1)(l): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 118(1)(m): February 1, 1993 in so far as it relates to 1990 c.43 s.111; not yet in force otherwise (SI 1992/3253 art. 3)

Pt VI s. 118(1)(n)-(1)(o): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 118(2)-(10): February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 118(1)-(10): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Law In Force

119.— Onus of proof as regards techniques and evidence.

(1) In any proceedings for either of the following offences, that is to say—

(a) an offence under section 118(1)(c) above consisting in a failure to comply with the general condition implied by section 112(4)(c) or (5)(c) above; or

(b) an offence under section 118(1)(d) above consisting in a failure to comply with section 109(3)(c) or (4)(c) above;

it shall be for the accused to prove **[** the matters described in subsection (1A) below. **]** [1]

[(1A) The matters referred to in subsection (1) above are–

(a) in the case of an offence under section 118(1)(c) above consisting in a failure to comply with the general condition implied by section 112(5)(c) above–

(i) that no measures, other than the measures taken by him, were necessary to prevent damage being caused to the environment from the release or, as the case may be, marketing of the organisms, or

(ii) in a case where he took no measures, that no measures were necessary; and

(b) in any other case, that there was no better available technique not entailing excessive cost than was in fact used to satisfy the condition or to comply with that section.

] [1]

(2) Where an entry is required by a condition in a consent to be made in any record as to the observance of any other condition and the entry has not been made, that fact shall be admissible as evidence that that other condition has not been observed.

Notes

[1] S.119(1A) and words inserted and existing text renumbered as s.119(1A)(b) by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt V reg.31 (December 31, 2002)

Commencement

Pt VI s. 119: February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 119(1)-(1)(b), (2): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Pt VI s. 119(1A)-(1A)(b): United Kingdom

Law In Force

120.— Power of court to order cause of offence to be remedied.

(1) Where a person is convicted of an offence under section 118(1)(a), (b), (c), (d), (e)or (f) above in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying those matters.

(2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or as extended under this subsection, as the case may be.

(3) Where a person is ordered under subsection (1) above to remedy any matters, that person shall not be liable under section 118 above in respect of those matters, in so far as they continue during the time fixed by the order or any further time allowed under subsection (2) above.

Commencement

Pt VI s. 120: February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 120(1)-(3): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Law In Force

121.— Power of Secretary of State to remedy harm.

(1) Where the commission of an offence under section 118(1)(a), (b), (c), (d), (e) or (f) above causes any harm which it is possible to remedy, the Secretary of State may, subject to subsection (2) below—

(a) arrange for any reasonable steps to be taken towards remedying the harm; and
(b) recover the cost of taking those steps from any person convicted of that offence.

(2) The Secretary of State shall not exercise his powers under this section, where any of the steps are to be taken on or will affect land in the occupation of any person other than a person convicted of the offence in question, except with the permission of that person.

Commencement

Pt VI s. 121: February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 121(1)-(2): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Publicity

Partially In Force

122.— Public register of information.

(1) The Secretary of State shall maintain a register ("the register") containing prescribed particulars of or relating to—

(a) notices given or other information furnished under section 108 above;
(b) directions given under section 108(8) above;
(c) prohibition notices;
(d) applications for consents (and any further information furnished in connection with them) and any advice given by the committee appointed under section 124 below in relation to such applications;

(e) consents granted by the Secretary of State and any information furnished to him in pursuance of consent conditions;
(f) any other information obtained or furnished under any provision of this Part;
(g) convictions for such offences under section 118 above as may be prescribed;
(h) such other matters relating to this Part as may be prescribed;

but that duty is subject to section 123 below.

(2) It shall be the duty of the Secretary of State—
(a) to secure that the register is open to inspection by members of the public free of charge at all reasonable hours; and
(b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(3) The register may be kept in any form.

(4) The Secretary of State may make regulations with respect to the keeping of the register; and in this section "prescribed" means prescribed in regulations made by the Secretary of State.

Commencement

Pt VI s. 122(1)(a)-(1)(b): April 1, 1991 in so far as it empowers the Secretary of State to make regulations; not yet in force otherwise (SI 1991/1042 art. 2(1))

Pt VI s. 122(1)(c)-(1)(h): April 1, 1991 in so far as it empowers the Secretary of State to make regulations; February 1, 1993 otherwise (SI 1991/1042 art. 2(1); SI 1992/3253 art. 3)

Pt VI s. 122(2)-(3): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 122(4): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt VI s. 122(1)-(4): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Law In Force

123.— Exclusion from register of certain information.

(1) No information shall be included in the register under section 122 above if and so long as, in the opinion of the Secretary of State, the inclusion of the information would be contrary to the interests of national security.

(2) No information shall be included in the register if and so long as, in the opinion of the Secretary of State, it ought to be excluded on the ground that its inclusion might result in damage to the environment.

(3) No information relating to the affairs of any individual or business shall be included in the register without the consent of that individual or the person for the time being carrying on that business, if the Secretary of State has determined that the information—
(a) is, in relation to him, commercially confidential; and
(b) is not information of a description to which subsection (7) below applies;

unless the Secretary of State is of the opinion that the information is no longer commercially confidential in relation to him.

(4) Nothing in subsection (3) above requires the Secretary of State to determine whether any information is or is not commercially confidential except where the person furnishing the information applies to have it excluded on the ground that it is (in relation to himself or another person) commercially confidential.

(5) Where an application has been made for information to be excluded under subsection (3) above, the Secretary of State shall make a determination and inform the applicant of it as soon as is practicable.

(6) Where it appears to the Secretary of State that any information (other than information furnished by the person to whom it relates) which has been obtained under or by virtue of any provision of this Part might be commercially confidential, the Secretary of State shall—

(a) give to the person to whom or to whose business it relates notice that the information is required to be included in the register unless excluded under subsection (3) above; and

(b) give him a reasonable opportunity—

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and

(ii) of making representations to the Secretary of State for the purpose of justifying any such objection;

and the Secretary of State shall take any representations into account before determining whether the information is or is not commercially confidential.

(7) The prescribed particulars of or relating to the matters mentioned in **[** section 122(1)(a), (c), (d) and (e) **]** [1] above shall be included in the register notwithstanding that they may be commercially confidential if and so far as they are of any of the following descriptions, namely—

(a) the name and address of the person giving the notice or furnishing the information;

(b) **[** the general description **]** [1] of any genetically modified organisms to which the notice or other information relates;

(c) **[…]**[1]

(d) the purpose for which those organisms are being imported, acquired, kept, released or marketed (according to whichever of those acts the notice or other information relates);

(e) **[…]**[1]

(f) notices under section 112(3), (4), (5) or (7) above;

and the Secretary of State may by regulations prescribe any other description of information as information which the public interest requires to be included in the register notwithstanding that it may be commercially confidential.

(8) Information excluded from the register under subsection (3) above shall be treated as ceasing to be commercially confidential for the purposes of that subsection at the expiry of a period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it or to whom or to whose business it relates may apply to the Secretary of State for the information to remain excluded on the ground that it is still commercially confidential.

(9) The Secretary of State may by order substitute for the period for the time being specified in subsection (8) above such other period as he considers appropriate.

Notes

[1] Amended by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt VII reg.34(2) (December 31, 2002)

Commencement

Pt VI s. 123(1)-(6): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 123(7): April 1, 1991 (SI 1991/1042 art. 2(1))

Pt VI s. 123(8): February 1, 1993 (SI 1992/3253 art. 3)

Pt VI s. 123(9): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt VI s. 123(1)-(9): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Supplementary

Law In Force

124.— Advisory committee for purposes of Part VI.

(1) The Secretary of State shall appoint a committee to provide him with advice—

(a) on the exercise of his powers under sections 111, 112 and 113 above;

(b) on the exercise of any power under this Part to make regulations;

and on such other matters concerning his functions under this Part as he may from time to time direct.

(2) The chairman and other members of the committee shall hold and vacate office in accordance with the terms of their appointment.

(3) The Secretary of State shall pay to the members of the committee such remuneration (if any) and such allowances as he may, with the consent of the Treasury, determine.

Commencement

Pt VI s. 124: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt VI s. 124(1)-(3): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Law In Force

125.— Delegation of enforcement functions.

(1) The Secretary of State may, by an agreement made with any public authority, delegate to that authority or to any officer appointed by an authority exercising functions on behalf of that authority any of his enforcement functions under this Part, subject to such restrictions and conditions as may be specified in the agreement.

(2) For the purposes of this section the following are "enforcement functions" of the Secretary of State, that is to say, his functions under—

section 110;
section 114(1) and (4);
section 116;
section 118(10); and
section 121;

and "inspector" in sections 115 and 117 includes, to the extent of the delegation, any inspector appointed by an authority other than the Secretary of State by virtue of an agreement under this section.

(3) The Secretary of State shall, if and so far as an agreement under this section so provides, make payments to the authority to reimburse the authority the expenses incurred in the performance of functions delegated under this section; but no such agreement shall be made without the approval of the Treasury.

Commencement

Pt VI s. 125: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt VI s. 125(1)-(3): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

[126.— Mode of exercise of certain functions.

(1) Any power of the Secretary of State to make regulations under this Part (other than the power conferred by section 113 above) is exercisable, where the regulations to be made relate to any matter with which the Minister is concerned, by the Secretary of State and the Minister acting jointly.

(2) Any function of the Secretary of State under this Part (other than a power to make regulations) is exercisable, where the function is to be exercised in relation to a matter with which the Minister is concerned, by the Secretary of State and the Minister acting jointly (but subject to subsection (3) below).

(3) Any function of the Secretary of State under sections 108(8) and 110 above is exercisable, where the function is to be exercised in relation to a matter with which the Agency is concerned—

(a) if it is a matter with which the Minister is also concerned, by the Secretary of State, the Minister and the Agency acting jointly;
(b) otherwise, by the Secretary of State and the Agency acting jointly.

(4) Accordingly, references in this Part to the Secretary of State shall, where subsection (1), (2) or (3) above applies, be treated as references to the authorities in question acting jointly.

(5) The Agency shall be consulted before—
(a) any regulations are made under this Part, other than under section 113 above, or
(b) any consent is granted or varied.

(6) The reference in section 113 above to expenditure of the Secretary of State in discharging functions under this Part in relation to consents shall be taken to include a reference to the corresponding expenditure of the Minister in discharging those functions jointly with the Secretary of State.

(7) The validity of anything purporting to be done in pursuance of the exercise of a function of the Secretary of State under this Part shall not be affected by any question whether that thing fell, by virtue of this section, to be done jointly with the Minister or the Agency (or both).

(8) In this section—
"the Agency" means the Food Standards Agency; and
"the Minister" means the Minister of Agriculture, Fisheries and Food.
] [1]

Notes

[1] Substituted by Food Standards Act 1999 c. 28 Sch.3(III) para.18 (April 1, 2000)

Scotland

[126.— Mode of exercise of certain functions.

(1) Any power of the Secretary of State to make regulations under this Part (other than the power conferred by section 113 above) is exercisable, where the regulations to be made relate to any matter with which the Minister is concerned, by the Secretary of State and the Minister acting jointly.

(2) Any function of the Secretary of State under this Part (other than a power to make regulations) is exercisable, where the function is to be exercised in relation to a matter with which the Minister is concerned, by the Secretary of State and the Minister acting jointly (but subject to subsection (3) below).

(3) Any function of the Secretary of State under sections 108(8) and 110 above is exercisable, where the function is to be exercised in relation to a matter with which the Agency is concerned—
(a) if it is a matter with which the Minister is also concerned, by the Secretary of State, the Minister and the Agency acting jointly;
(b) otherwise, by the Secretary of State and the Agency acting jointly.

(4) Accordingly, references in this Part to the Secretary of State shall, where subsection (1), (2) or (3) above applies, be treated as references to the authorities in question acting jointly.

(5) The Agency shall be consulted before—

(a) any regulations are made under this Part, other than under section 113 above, or

(b) any consent is granted or varied.

(6) The reference in section 113 above to expenditure of the Secretary of State in discharging functions under this Part in relation to consents shall be taken to include a reference to the corresponding expenditure of the Minister in discharging those functions jointly with the Secretary of State.

(7) The validity of anything purporting to be done in pursuance of the exercise of a function of the Secretary of State under this Part shall not be affected by any question whether that thing fell, by virtue of this section, to be done jointly with the Minister or the Agency (or both).

(8) In this section—

"the Agency" means the Food Standards Agency; and

"the Minister" means the Minister of Agriculture, Fisheries and Food.

(9) In the application of this section to Scotland, the reference in subsection (8) to the Food Standards Agency is to be read as a reference to Food Standards Scotland.
] [1]

Notes

[1] Added by Food (Scotland) Act 2015 asp 1 (Scottish Act) Sch.1 para.4(4) (April 1, 2015)

Commencement

Pt VI s. 126: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt VI s. 126(1)-(2): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

Pt VI s. 126(3)-(8) definition of "the Minister": United Kingdom

---

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force

Scotland

127.— Definitions.

(1) In this Part—

"acquire", in relation to genetically modified organisms, includes any method by which such organisms may come to be in a person's possession, other than by their being imported;

"consent" means a consent granted under section 111 above, and a reference to the limitations or conditions to which a consent is subject is a reference to the limitations or conditions subject to which the consent for the time being has effect;
"descendant", in relation to a genetically modified organism, means any other organism whose genes or other genetic material is derived, through any number of generations, from that organism by any process of reproduction;
"import" means import into the United Kingdom;
"premises" includes any land;
"prohibition notice" means a notice under section 110 above.

(2) This Part, except in so far as it relates to importations of genetically modified organisms, applies to the territorial sea adjacent to Great Britain, and **[** applies to any area for the time being designated under section 1(7) of the Continental Shelf Act 1964 as it applies in England. **]** [1]

Notes

[1] Words substituted by Genetically Modified Organisms (Deliberate Release) Regulations 2002/2443 Pt IX reg.38(b) (October 17, 2002)

Wales

[127.— Definitions.

(1) In this Part—
"acquire", in relation to genetically modified organisms, includes any method by which such organisms may come to be in a person's possession, other than by their being imported;
"consent" means a consent granted under section 111 above, and a reference to the limitations or conditions to which a consent is subject is a reference to the limitations or conditions subject to which the consent for the time being has effect;
"descendant", in relation to a genetically modified organism, means any other organism whose genes or other genetic material is derived, through any number of generations, from that organism by any process of reproduction;
"import" means import into the United Kingdom;
"premises" includes any land;
"prohibition notice" means a notice under section 110 above.

(2) This Part, except in so far as it relates to importations of genetically modified organisms, applies to the territorial sea adjacent to England as it applies in England **[** and applies to the territorial sea adjacent to Wales as it applies in Wales **]** [2] , and applies to any area for the time being designated under section 1(7) of the Continental Shelf Act 1964 as it applies in England.
] [1]

Notes

[1] Words substituted by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt IX reg.40(1) (December 31, 2002)

[2] Words inserted by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt IX reg.40(2) (December 31, 2002)

England

[127.— Definitions.

(1) In this Part—

"acquire", in relation to genetically modified organisms, includes any method by which such organisms may come to be in a person's possession, other than by their being imported;

"consent" means a consent granted under section 111 above, and a reference to the limitations or conditions to which a consent is subject is a reference to the limitations or conditions subject to which the consent for the time being has effect;

"descendant", in relation to a genetically modified organism, means any other organism whose genes or other genetic material is derived, through any number of generations, from that organism by any process of reproduction;

"import" means import into the United Kingdom;

"premises" includes any land;

"prohibition notice" means a notice under section 110 above.

(2) This Part, except in so far as it relates to importations of genetically modified organisms, applies to the territorial sea adjacent to England as it applies in England, and applies to any area for the time being designated under section 1(7) of the Continental Shelf Act 1964 as it applies in England. **]** [1]

Notes

[1] Words substituted by Genetically Modified Organisms (Deliberate Release) Regulations 2002/2443 Pt IX reg.38(a) (October 17, 2002)

Commencement

Pt VI s. 127: February 1, 1993 (SI 1992/3253 art. 3)

Extent

Pt VI s. 127(1)-(2): United Kingdom (extends to Northern Ireland so far as it relates to importation and, without that restriction, section 127(2) as far as it relates to the continental shelf)

PART VII

NATURE CONSERVATION IN GREAT BRITAIN AND COUNTRYSIDE MATTERS IN WALES

New Councils for England, Scotland and Wales

Repealed

128 […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

129 […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Countryside matters

Repealed

130.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Nature conservation in Great Britain

Repealed

131.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

132.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

133.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

134.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(a) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Transfer of property, rights and liabilities to new Councils

Repealed

135.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

136.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Employment by new Councils of staff of existing bodies

Repealed

137.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Dissolution of Nature Conservancy Council

Repealed

138.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Transitional provisions and savings

Law In Force

139. Transitional provisions and savings.
Schedule 11 to this Act (which contains transitional provisions and savings relating to this Part) shall have effect.

Commencement

Pt VII s. 139: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Pt VII s. 139: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART VIII

MISCELLANEOUS

Other controls on substances, articles or waste

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

140.— Power to prohibit or restrict the importation, use, supply or storage of injurious substances or articles.

(1) The Secretary of State may by regulations prohibit or restrict—

(a) the importation into and the landing and unloading in the United Kingdom,

(b) the use for any purpose,

(c) the supply for any purpose, and

(d) the storage,

of any specified substance or article if he considers it appropriate to do so for the purpose of preventing the substance or article from causing pollution of the environment or harm to human health or to the health of animals or plants.

(2) Any such prohibition or restriction may apply—

(a) in all, or only in specified, areas;

(b) in all, or only in specified, circumstances or if conditions imposed by the regulations are not complied with; and

(c) to all, or only to specified descriptions of, persons.

(3) Regulations under this section may—

(a) confer on the Secretary of State power to direct that any substance or article whose use, supply or storage is prohibited or restricted is to be treated as waste or controlled waste of any description and in relation to any such substance or article—

(i) to apply, with or without modification, specified provisions of Part II; or

(ii) to direct that it be disposed of or treated in accordance with the direction;

(b) confer on the Secretary of State power, where a substance or article has been imported, landed or unloaded in contravention of a prohibition or restriction imposed under subsection (1)(a) above, to require that the substance or article be disposed of or treated in or removed from the United Kingdom;

(c) confer powers corresponding to those conferred by **[** section 108 of the Environment Act 1995 **]** [1] on persons authorised for any purpose of the regulations by the Secretary of State or any local or other authority; and

(d) include such other incidental and supplemental, and such transitional provisions, as the Secretary of State considers appropriate.

(4) The Secretary of State may, by regulations under this section, direct that, for the purposes of any power conferred on him under subsection (3)(b) above, any prohibition or restriction on the importation into or the landing and unloading in the United Kingdom imposed—

(a) **[…]**[2]

(b) by or under any enactment,

shall be treated as imposed under subsection (1)(a) above and any power conferred on him under subsection (3)(b) above shall be exercisable accordingly.

(5) **[…]**[3]

(6) Subject to subsection (7) below, it shall be the duty of the Secretary of State before he makes any regulations under this section other than regulations under subsection (4) above—

(a) **[…]**[3]

(b) **[…]**[4] to publish in the London Gazette and, if the regulations apply in Scotland or Northern Ireland, the Edinburgh Gazette or, as the case may be, Belfast Gazette and in any other publication which he considers appropriate, a notice indicating the effect of the proposed regulations and specifying—

(i) the date on which it is proposed that the regulations will come into force;

(ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours; and

(iii) a period of not less than fourteen days, beginning with the date on which the notice is first published, during which representations in writing may be made to the Secretary of State about the proposed regulations; and

(c) to consider any representations which are made to him in accordance with the notice.

(7) The Secretary of State may make regulations under this section in relation to any substance or article without observing the requirements of subsection (6) above where it appears to him that there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.

(8) The Secretary of State may, after performing the duty imposed on him by subsection (6) above with respect to any proposed regulations, make the regulations either—

(a) in the form of the draft mentioned in subsection (6)(b) above, or

(b) in that form with such modifications as he considers appropriate;

but the Secretary of State shall not make any regulations incorporating modifications unless he is of opinion that it is appropriate for the requirements of subsection (6) above to be disregarded.

(9) Regulations under this section may provide that a person who contravenes or fails to comply with a specified provision of the regulations or causes or permits another person to contravene or fail to comply with a specified provision of the regulations commits an offence and may prescribe the maximum penalty for the offence.

(10) No offence under the regulations shall be made punishable with imprisonment for more than two years or punishable on summary conviction with a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.

(11) In this section—

["enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; **]** [5]

"the environment" means the air, water and land, or any of those media, and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground;
"specified" means specified in the regulations; and
"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

Notes

1 Words substituted by Environment Act 1995 (Consequential Amendment) Regulations 1999/1108 reg.2 (May 6, 1999)

2 Repealed by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(6) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

4 Words repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

5 Definition inserted by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(9) (June 30, 2014)

England and Wales

[140.— Power to prohibit or restrict the importation, use, supply or storage of injurious substances or articles.

(1) The Secretary of State may by regulations prohibit or restrict—
(a) the importation into and the landing and unloading in the United Kingdom,
(b) the use for any purpose,
(c) the supply for any purpose, and
(d) the storage,
of any specified substance or article if he considers it appropriate to do so for the purpose of preventing the substance or article from causing pollution of the environment or harm to human health or to the health of animals or plants.

(2) Any such prohibition or restriction may apply—
(a) in all, or only in specified, areas;
(b) in all, or only in specified, circumstances or if conditions imposed by the regulations are not complied with; and
(c) to all, or only to specified descriptions of, persons.

(3) Regulations under this section may—
(a) confer on the Secretary of State power to direct that any substance or article whose use, supply or storage is prohibited or restricted is to be treated as waste or controlled waste of any description and in relation to any such substance or article—
(i) to apply, with or without modification, specified provisions of Part II; or
(ii) to direct that it be disposed of or treated in accordance with the direction;
(b) confer on the Secretary of State power, where a substance or article has been imported, landed or unloaded in contravention of a prohibition or restriction imposed under subsection

(1)(a) above, to require that the substance or article be disposed of or treated in or removed from the United Kingdom;

(c) confer powers corresponding to those conferred by section 108 of the Environment Act 1995 on persons authorised for any purpose of the regulations by the Secretary of State or any local or other authority; and

(d) include such other incidental and supplemental, and such transitional provisions, as the Secretary of State considers appropriate.

(4) The Secretary of State may, by regulations under this section, direct that, for the purposes of any power conferred on him under subsection (3)(b) above, any prohibition or restriction on the importation into or the landing and unloading in the United Kingdom imposed—

(a) **[…]**[2]

(b) by or under any enactment,

shall be treated as imposed under subsection (1)(a) above and any power conferred on him under subsection (3)(b) above shall be exercisable accordingly.

(6) Subject to subsection (7) below, it shall be the duty of the Secretary of State before he makes any regulations under this section other than regulations under subsection (4) above—

(b) to publish in the London Gazette and, if the regulations apply in Scotland or Northern Ireland, the Edinburgh Gazette or, as the case may be, Belfast Gazette and in any other publication which he considers appropriate, a notice indicating the effect of the proposed regulations and specifying—

(i) the date on which it is proposed that the regulations will come into force;

(ii) a place where a draft of the proposed regulations may be inspected free of charge by members of the public during office hours; and

(iii) a period of not less than fourteen days, beginning with the date on which the notice is first published, during which representations in writing may be made to the Secretary of State about the proposed regulations; and

(c) to consider any representations which are made to him in accordance with the notice.

(7) The Secretary of State may make regulations under this section in relation to any substance or article without observing the requirements of subsection (6) above where it appears to him that there is an imminent risk, if those requirements are observed, that serious pollution of the environment will be caused.

(8) The Secretary of State may, after performing the duty imposed on him by subsection (6) above with respect to any proposed regulations, make the regulations either—

(a) in the form of the draft mentioned in subsection (6)(b) above, or

(b) in that form with such modifications as he considers appropriate;

but the Secretary of State shall not make any regulations incorporating modifications unless he is of opinion that it is appropriate for the requirements of subsection (6) above to be disregarded.

(9) Regulations under this section may provide that a person who contravenes or fails to comply with a specified provision of the regulations or causes or permits another person to contravene or fail to comply with a specified provision of the regulations commits an offence and may prescribe the maximum penalty for the offence.

(10) No offence under the regulations shall be made punishable with imprisonment for more than two years or punishable on summary conviction with a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence,—

(a) exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence, or

(b) if there is no maximum penalty for the original offence, exceeding one-tenth of the greater of £5,000 or level 4 on the standard scale.

(11) In this section—

"enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

"the environment" means the air, water and land, or any of those media, and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground;

"specified" means specified in the regulations; and

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

] [1]

Notes

[1] S.140(10)(a) and (b) substituted for words by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(2) para.16(2) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1) and (2))

[2] Repealed by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(6) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Pt VIII s. 140: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 140(1)-(11), (11) definition of "the environment"-(11) definition of "substance": United Kingdom (extends to Northern Ireland so far as it relates to importation)

Pt VIII s. 140(11) definition of "enactment": United Kingdom

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force With Amendments Pending

Scotland

141.— Power to prohibit or restrict the importation or exportation of waste.

(1) The Secretary of State may, for the purpose of preventing any risk of pollution of the environment or of harm to human health arising from waste being imported or exported or of conserving the facilities or resources for dealing with waste, make regulations prohibiting or restricting, or providing for the prohibition or restriction of—

(a) the importation into and the landing and unloading in the United Kingdom, or
(b) the exportation, or the loading for exportation, from the United Kingdom,
of waste of any description.

(2) Regulations under this section may make different provision for different descriptions of waste or waste of any description in different circumstances.

(3) Regulations under this section may, as respects any description of waste, confer or impose on waste regulation authorities or any of them such functions in relation to the importation of waste as appear to be appropriate to the Secretary of State, subject to such limitations and conditions as are specified in the regulations.

(4) Regulations under this section may confer or impose on waste regulation authorities or any of them functions of enforcing any of the regulations on behalf of the Secretary of State whether or not the functions fall within subsection (3) above.

(5) Regulations under this section may—
(a) as respects functions conferred or imposed on waste regulation authorities—
(i) make them exercisable in relation to individual consignments or consignments in a series by the same person but not in relation to consignments or descriptions of consignments generally; **[…]**[1]
(ii) **[…]**[1]
(b) impose or provide for the imposition of prohibitions either absolutely or only if conditions or procedures prescribed in or under the regulations are not complied with;
(c) impose duties to be complied with before, on or after any importation or exportation of waste by persons who are, or are to be, consignors, consignees, carriers or holders of the waste or any waste derived from it;
(d) confer powers corresponding to those conferred by section 69(3) above;
(e) provide for appeals to the Secretary of State from determinations made by authorities under the regulations;
(f) provide for the keeping by the Secretary of State, waste regulation authorities and waste collection authorities of public registers of information relating to the importation and exportation of waste and for the transmission of such information between any of those persons;
(g) create offences, subject to the limitation that no offence shall be punishable with imprisonment for more than two years or punishable on summary conviction with imprisonment for more than six months or a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence.

(6) In this section—
"the environment" means land, water and air or any of them;
"harm" includes offence to any of man's senses;
"waste" , "waste collection authority" , and "waste regulation authority" have the same meaning as in Part II; and
"the United Kingdom" includes its territorial sea.

(7) In the application of this section to Northern Ireland and the territorial sea of the United Kingdom adjacent to Northern Ireland "waste regulation authority" means **[** the Department of the Environment for Northern Ireland **]** [2] .

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.22 para.90 (April 1, 1996)

[2] Words substituted by Waste and Contaminated Land (Northern Ireland) Order 1997/2778 Sch.5 para.5 (November 27, 2003 for purposes specified in SR 2003/489 art.2 and Sch.1; on the day immediately following the appropriate date in relation to the appeal in question otherwise)

England and Wales

[141.— Power to prohibit or restrict the importation or exportation of waste.

(1) The Secretary of State may, for the purpose of preventing any risk of pollution of the environment or of harm to human health arising from waste being imported or exported or of conserving the facilities or resources for dealing with waste, make regulations prohibiting or restricting, or providing for the prohibition or restriction of—

(a) the importation into and the landing and unloading in the United Kingdom, or

(b) the exportation, or the loading for exportation, from the United Kingdom,

of waste of any description.

(2) Regulations under this section may make different provision for different descriptions of waste or waste of any description in different circumstances.

(3) Regulations under this section may, as respects any description of waste, confer or impose on waste regulation authorities or any of them such functions in relation to the importation of waste as appear to be appropriate to the Secretary of State, subject to such limitations and conditions as are specified in the regulations.

(4) Regulations under this section may confer or impose on waste regulation authorities or any of them functions of enforcing any of the regulations on behalf of the Secretary of State whether or not the functions fall within subsection (3) above.

(5) Regulations under this section may—

(a) as respects functions conferred or imposed on waste regulation authorities—

(i) make them exercisable in relation to individual consignments or consignments in a series by the same person but not in relation to consignments or descriptions of consignments generally;

(b) impose or provide for the imposition of prohibitions either absolutely or only if conditions or procedures prescribed in or under the regulations are not complied with;

(c) impose duties to be complied with before, on or after any importation or exportation of waste by persons who are, or are to be, consignors, consignees, carriers or holders of the waste or any waste derived from it;

(d) confer powers corresponding to those conferred by section 69(3) above;

(e) provide for appeals to the Secretary of State from determinations made by authorities under the regulations;

(f) provide for the keeping by the Secretary of State, waste regulation authorities and waste collection authorities of public registers of information relating to the importation and exportation of waste and for the transmission of such information between any of those persons;

(g) create offences, subject to the limitation that no offence shall be punishable with imprisonment for more than two years or punishable on summary conviction with imprisonment for more than six months or a fine exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence,—

(i) exceeding one-tenth of the level on the standard scale specified as the maximum penalty for the original offence, or

(ii) if there is no maximum penalty for the original offence, exceeding one-tenth of the greater of £5,000 or level 4 on the standard scale.

(6) In this section—

"the environment" means land, water and air or any of them;

"harm" includes offence to any of man's senses;

"waste" , "waste collection authority" , and "waste regulation authority" have the same meaning as in Part II; and

"the United Kingdom" includes its territorial sea.

(7) In the application of this section to Northern Ireland and the territorial sea of the United Kingdom adjacent to Northern Ireland "waste regulation authority" means the Department of the Environment for Northern Ireland.

] [1]

Notes

[1] S.141(5)(g)(i) and (ii) substituted for words by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 Sch.3(2) para.16(3) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1) and (2))

Amendments Pending

Pt VIII s. 141(1): s.141(1), (1A) and (1B) substituted for s.141(1) by Environment Act 2021 c. 30 Pt 3 s. 62(3) (Not yet in force)

Pt VIII s. 141(5B)-(5E): added by Environment Act 2021 c. 30, Pt 3 s. 62(7) (date to be appointed)

Pt VIII s. 141(5A): added by Criminal Justice Act 2003 c. 44, Sch. 27 para. 6(3) (date to be appointed)

Pt VIII s. 141(5)(g): words substituted by Criminal Justice Act 2003 c. 44, Sch. 27 para. 6(2) (date to be appointed)

Pt VIII s. 141(6) definition of "importation"-"transit of waste for export": definitions inserted by Environment Act 2021 c. 30, Pt 3 s. 62(8) (date to be appointed)

Pt VIII s. 141(6) definition of "exportation": definition inserted by Environment Act 2021 c. 30, Pt 3 s. 62(8) (date to be appointed)

Pt VIII s. 141(5)(h): added by Environment Act 2021 c. 30, Pt 3 s. 62(6)(h) (date to be appointed)

Pt VIII s. 141(5)(fa)-(i): added by Environment Act 2021 c. 30, Pt 3 s. 62(6)(g) (date to be appointed)

Pt VIII s. 141(5)(e): words substituted by Environment Act 2021 c. 30, Pt 3 s. 62(6)(f) (date to be appointed)

Pt VIII s. 141(5)(d): words substituted by Environment Act 2021 c. 30, Pt 3 s. 62(6)(e) (date to be appointed)

Pt VIII s. 141(5)(ba)-(bb): added by Environment Act 2021 c. 30, Pt 3 s. 62(6)(d) (date to be appointed)

Pt VIII s. 141(5)(b): words repealed by Environment Act 2021 c. 30, Pt 3 s. 62(6)(c) (date to be appointed)

Pt VIII s. 141(5)(aa): added by Environment Act 2021 c. 30, Pt 3 s. 62(6)(b) (date to be appointed)

Pt VIII s. 141(5)(a): repealed by Environment Act 2021 c. 30, Pt 3 s. 62(6)(a) (date to be appointed)

Pt VIII s. 141(4): repealed by Environment Act 2021 c. 30, Pt 3 s. 62(5) (date to be appointed)

Pt VIII s. 141(3): substituted by Environment Act 2021 c. 30, Pt 3 s. 62(4) (date to be appointed)

Pt VIII s. 141: words inserted by Environment Act 2021 c. 30, Pt 3 s. 62(2)(b) (date to be appointed)

Pt VIII s. 141: words substituted by Environment Act 2021 c. 30, Pt 3 s. 62(2)(a) (date to be appointed)

Commencement

Pt VIII s. 141: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 141(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

142.— Powers to obtain information about potentially hazardous substances.

(1) The Secretary of State may, for the purpose of assessing their potential for causing pollution of the environment or harm to human health, by regulations make provision for and in connection with the obtaining of relevant information relating to substances which may be specified by him by order for the purposes of this section.

(2) The Secretary of State shall not make an order under subsection (1) above specifying any substance—

(a) which was first supplied in any member State **[** or in the United Kingdom **]**[1] on or after 18th September 1981; or

(b) in so far as it is a regulated substance for the purposes of any relevant enactment.

(3) **[…]**[2]

(4) Regulations under this section may—

(a) prescribe the descriptions of relevant information which are to be furnished under this section in relation to specified substances;

(b) impose requirements on manufacturers, importers or suppliers generally to furnish information prescribed under paragraph (a) above;

(c) provide for the imposition of requirements on manufacturers, importers or suppliers generally to furnish relevant information relating to products or articles containing specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;

(d) provide for the imposition of requirements on particular manufacturers, importers or suppliers to furnish further information relating to specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;

(e) provide for the imposition of requirements on particular manufacturers or importers to carry out tests of specified substances and to furnish information of the results of the tests;

(f) authorise persons to comply with requirements to furnish information imposed on them by or under the regulations by means of representative persons or bodies;

(g) impose restrictions on the disclosure of information obtained under this section and provide for determining what information is, and what information is not, to be treated as furnished in confidence;

(h) create offences, subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale;

(i) make any public authority designated by the regulations responsible for the enforcement of the regulations to such extent as may be specified in the regulations;

(j) include such other incidental and supplemental, and such transitional, provisions as the Secretary of State considers appropriate.

(5) The Secretary of State shall have regard, in imposing or providing for the imposition of any requirement under subsection (4)(b), (c), (d) or (e) above, to the cost likely to be involved in complying with the requirement.

(6) In this section—

"the environment" means the air, water and land or any of them;

"relevant information", in relation to substances, products or articles, means information relating to their properties, production, distribution, importation or use or intended use and, in relation to products or articles, to their disposal as waste;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

(7) The enactments which are relevant for the purposes of subsection (2)(b) above are the following—

[the Explosives Regulations 2014; **]** [3]

[the **[** Environmental Authorisations (Scotland) Regulations 2018 **]** [5] **]** [4] ;

[Parts 3 to 8 and 16 of the Human Medicines Regulations 2012; **]** [6]

Part IV of the Agriculture Act 1970;

the Misuse of Drugs Act 1971;

Part III of the Food and Environment Protection Act 1985; and

the Food Safety Act 1990;

[the Veterinary Medicines Regulations 2006; **]** [7]

and a substance is a regulated substance for the purposes of any such enactment in so far as any prohibition, restriction or requirement is imposed in relation to it by or under the enactment for the purposes of that enactment.

Notes

1 Words inserted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(7) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

2 Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

3 Words substituted by Explosives Regulations 2014/1638 Sch.13(1) para.6 (October 1, 2014)

[4] Words substituted by Radioactive Substances Act 1993 c. 12 Sch.4 para.8 (August 27, 1993)

[5] Words substituted by Environmental Authorisations (Scotland) Regulations 2018/219 (Scottish SI) Sch.6(1) para.2(3) (September 1, 2018)

[6] Entry substituted by Human Medicines Regulations 2012/1916 Sch.34(2) para.41 (August 14, 2012)

[7] Words inserted by Veterinary Medicines Regulations 2006/2407 Sch.9(1) para.8(b) (October 1, 2006)

England and Wales

[142.— Powers to obtain information about potentially hazardous substances.

(1) The Secretary of State may, for the purpose of assessing their potential for causing pollution of the environment or harm to human health, by regulations make provision for and in connection with the obtaining of relevant information relating to substances which may be specified by him by order for the purposes of this section.

(2) The Secretary of State shall not make an order under subsection (1) above specifying any substance—

(a) which was first supplied in any member State **[** or in the United Kingdom **]**[2] on or after 18th September 1981; or

(b) in so far as it is a regulated substance for the purposes of any relevant enactment.

(3) **[…]**[3]

(4) Regulations under this section may—

(a) prescribe the descriptions of relevant information which are to be furnished under this section in relation to specified substances;

(b) impose requirements on manufacturers, importers or suppliers generally to furnish information prescribed under paragraph (a) above;

(c) provide for the imposition of requirements on manufacturers, importers or suppliers generally to furnish relevant information relating to products or articles containing specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;

(d) provide for the imposition of requirements on particular manufacturers, importers or suppliers to furnish further information relating to specified substances in relation to which information has been furnished in pursuance of paragraph (b) above;

(e) provide for the imposition of requirements on particular manufacturers or importers to carry out tests of specified substances and to furnish information of the results of the tests;

(f) authorise persons to comply with requirements to furnish information imposed on them by or under the regulations by means of representative persons or bodies;

(g) impose restrictions on the disclosure of information obtained under this section and provide for determining what information is, and what information is not, to be treated as furnished in confidence;

(h) create offences, subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale;

(i) make any public authority designated by the regulations responsible for the enforcement of the regulations to such extent as may be specified in the regulations;

(j) include such other incidental and supplemental, and such transitional, provisions as the Secretary of State considers appropriate.

(5) The Secretary of State shall have regard, in imposing or providing for the imposition of any requirement under subsection (4)(b), (c), (d) or (e) above, to the cost likely to be involved in complying with the requirement.

(6) In this section—

"the environment" means the air, water and land or any of them;

"relevant information", in relation to substances, products or articles, means information relating to their properties, production, distribution, importation or use or intended use and, in relation to products or articles, to their disposal as waste;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour and it includes mixtures of substances.

(7) The enactments which are relevant for the purposes of subsection (2)(b) above are the following—

[the Explosives Regulations 2014; **]** [4]

[the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154) **]** [5]

in relation to radioactive material or radioactive waste;

[Parts 3 to 8 and 16 of the Human Medicines Regulations 2012; **]** [6]

Part IV of the Agriculture Act 1970;

the Misuse of Drugs Act 1971;

Part III of the Food and Environment Protection Act 1985; and

the Food Safety Act 1990;

the Veterinary Medicines Regulations 2006;

and a substance is a regulated substance for the purposes of any such enactment in so far as any prohibition, restriction or requirement is imposed in relation to it by or under the enactment for the purposes of that enactment.

] [1]

Notes

1 Words substituted by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.26(1) para.5(12) (April 6, 2010 immediately after the coming into force of SI 2009/3381)

2 Words inserted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(7) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

3 Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

4 Words substituted by Explosives Regulations 2014/1638 Sch.13(1) para.6 (October 1, 2014)

5 Words substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 Sch.29(1) para.6(7) (January 1, 2017)

6 Entry substituted by Human Medicines Regulations 2012/1916 Sch.34(2) para.41 (August 14, 2012)

Commencement

Pt VIII s. 142: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 142(1)-(7): United Kingdom (extends to Northern Ireland so far as it relates to importation)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | Scotland | England

Repealed

Wales

143.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (September 15, 2001 as SI 2001/3211)

Scotland

[…][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (July 14, 2000: as SSI 2000/180)

England

[...]

Law In Force

144. Amendments of hazardous substances legislation.

Schedule 13 to this Act (which contains miscellaneous amendments to the legislation relating to hazardous substances) shall have effect.

Commencement

Pt VIII s. 144: January 1, 1992 for provisions specified in SI 1991/2829 art.3; February 18, 1993 for provisions specified in SI 1993/274 art.2(1); May 1, 1993 otherwise (SI 1991/2829 art. 3; SI 1993/274 art. 2(1), art. 3)

Extent

Pt VIII s. 144-: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed

England and Wales

145.— Penalties for offences of polluting controlled waters etc.

(1) **[…]**[1]

(2) In sections 31(7)(a), 31A(2)(c)(i) and 32(7)(a) of the Control of Pollution Act 1974 (corresponding penalties for Scotland), for the words "the statutory maximum" there shall be substituted "£20,000".

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

Scotland

[…][1]

Notes

[1] Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(d) (June 30, 2014)

Commencement

Pt VIII s. 145: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 145(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pollution at sea

Law In Force

146.— Deposits of substances and articles in the sea, etc.

(1) Part II of the Food and Environment Protection Act 1985 (under which licences are required for deposits by British vessels etc at sea anywhere or by foreign vessels etc in United Kingdom waters or, in certain circumstances, within British fishery limits) shall be amended as follows.

(2)-(5) **[…]**[1]

(6) In section 21 (penalties for offences)—

(a) in subsection (2), for the words "2(4) and 9(1)" there shall be substituted the words "and 2(4)"; and

(b) after that subsection, there shall be inserted the following subsection—

"(2A) A person guilty of an offence under section 9(1) shall be liable—

(a) on summary conviction, to a fine of an amount not exceeding £50,000; and

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both."

(7) **[…]**[1]

(8) In Schedule 2 (powers in relation to vessels, aircraft, etc. for the purposes of Part I or Part II or both Parts of the Act), in paragraph 3(3) (removal to United Kingdom), after the words "Part I" there shall be inserted the words "or II".

Notes

[1] Repealed by Marine and Coastal Access Act 2009 c. 23 Sch.22(2) para.1 (April 6, 2011)

Commencement

Pt VIII s. 146: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 146(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

147. Public registers relating to deposits in the sea and incineration at sea.

In Part II of the Food and Environment Protection Act 1985, for section 14 (registers of licences) there shall be substituted the following section—

14.— "Duty of licensing authority to keep public registers of information.

(1) It shall be the duty of each licensing authority, as respects licences for which it is the licensing authority, to maintain, in accordance with regulations, a register containing prescribed particulars of or relating to—

(a) applications for licences made to that authority;

(b) the licences issued by that authority;

(c) variations of licences effected by that authority;
(d) revocations of licences effected by that authority;
(e) convictions for any offences under section 9 above;
(f) information obtained or furnished in pursuance of section 8(3), (4) or (5) above;
(g) the occasions on which either of the Ministers has carried out any operation under section 10 above; and
(h) such other matters relating to operations for which licences are needed under this Part of this Act as may be prescribed.

(2) No information shall be included in any register which, in the opinion of either of the Ministers, is such that its disclosure on the register—
(a) would be contrary to the interests of national security, or
(b) would prejudice to an unreasonable degree some person's commercial interests.

(3) Information excluded from a register by virtue of subsection (2)(b) above shall be treated as ceasing to prejudice a person's commercial interests at the expiry of the period of four years beginning with the date on which the Minister made his decision under that subsection; but, on the application of any person to whom it relates, the Minister shall decide whether the information should be included or continue to be excluded from the register.

(4) Where information of any description is excluded from a register by virtue of subsection (2)(b) above, a statement shall be entered in the register indicating the existence of information of that description.

(5) It shall be the duty of each licensing authority—
(a) to secure that the register maintained by the authority under this section is available, at all reasonable times, for inspection by the public free of charge; and
(b) to afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(6) Registers under this section may be kept in any form.

(7) In this section "prescribed" means prescribed in regulations.

(8) Either of the Ministers may exercise any power to make regulations under this section and any such power shall be exercisable by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament."

Commencement

Pt VIII s. 147: May 31, 1991 (SI 1991/1319 art. 2)

Extent

Pt VIII s. 147: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

148.— […][1]

Notes

[1] Repealed by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Control of Dogs

Law In Force

149.— Seizure of stray dogs.

(1) Every local authority shall appoint an officer (under whatever title the authority may determine) for the purpose of discharging the functions imposed or conferred by this section for dealing with stray dogs found in the area of the authority.

(2) The officer may delegate the discharge of his functions to another person but he shall remain responsible for securing that the functions are properly discharged.

(3) Where the officer has reason to believe that any dog found in a public place or on any other land or premises is a stray dog, he shall (if practicable) seize the dog and detain it, but, where he finds it on land or premises which is not a public place, only with the consent of the owner or occupier of the land or premises.

(4) Where any dog seized under this section wears a collar having inscribed thereon or attached thereto the address of any person, or the owner of the dog is known, the officer shall serve on the person whose address is given on the collar, or on the owner, a notice in writing stating that the dog has been seized and where it is being kept and stating that the dog will be liable to be disposed of if it is not claimed within seven clear days after the service of the notice and the amounts for which he would be liable under subsection (5) below are not paid.

(5) A person claiming to be the owner of a dog seized under this section shall not be entitled to have the dog returned to him unless he pays all the expenses incurred by reason of its detention and such further amount as is for the time being prescribed.

(6) Where any dog seized under this section has been detained for seven clear days after the seizure or, where a notice has been served under subsection (4) above, the service of the notice and the owner has not claimed the dog and paid the amounts due under subsection (5) above the officer may dispose of the dog—

(a) by selling it or giving it to a person who will, in his opinion, care properly for the dog;
(b) by selling it or giving it to an establishment for the reception of stray dogs; or
(c) by destroying it in a manner to cause as little pain as possible;

but no dog seized under this section shall be sold or given for the purposes of vivisection.

(7) Where a dog is disposed of under subsection (6)(a) or (b) above to a person acting in good faith, the ownership of the dog shall be vested in the recipient.

(8) The officer shall keep a register containing the prescribed particulars of or relating to dogs seized under this section and the register shall be available, at all reasonable times, for inspection by the public free of charge.

(9) The officer shall cause any dog detained under this section to be properly fed and maintained.

(10) Notwithstanding anything in this section, the officer may cause a dog detained under this section to be destroyed before the expiration of the period mentioned in subsection (6) above where he is of the opinion that this should be done to avoid suffering.

(11) In this section—

"local authority" , in relation to England **[…]**[1] means a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly **[** in relation to Wales, means a county council or a county borough council **]**[2] and, in relation to Scotland, means **[** a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 **]**[3] ;

"officer" means an officer appointed under subsection (1) above;

"prescribed" means prescribed in regulations made by the Secretary of State; and

"public place" means —

(i) as respects England and Wales, any highway and any other place to which the public are entitled or permitted to have access;

(ii) as respects Scotland, any road (within the meaning of the Roads (Scotland) Act 1984) and any other place to which the public are entitled or permitted to have access;

and, for the purposes of section 160 below in its application to this section, the proper address of the owner of a dog which wears a collar includes the address given on the collar.

Notes

1 Words repealed by Local Government (Wales) Act 1994 c. 19 Sch.18 para.1 (April 1, 1996 as SI 1996/396)

2 Words inserted within definition by Local Government (Wales) Act 1994 c. 19 Sch.9 para.17(13) (April 1, 1996)

3 Words substituted within definition by Local Government etc. (Scotland) Act 1994 c. 39 Sch.13 para.167(17) (April 1, 1996)

Commencement

Pt VIII s. 149: February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 otherwise (SI 1992/266 art. 2, art. 3)

Extent

Pt VIII s. 149-(11) definition of "public place" (ii): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

150.— Delivery of stray dogs to police or local authority officer.

(1) Any person (in this section referred to as "the finder") who takes possession of a stray dog shall forthwith either—

(a) return the dog to its owner; or

(b) take the dog—

(i) to the officer of the local authority for the area in which the dog was found; or

(ii) to the police station which is nearest to the place where the dog was found;

and shall inform the officer of the local authority or the police officer in charge of the police station, as the case may be, where the dog was found.

(2) Where a dog has been taken under subsection (1) above to the officer of a local authority, then—

(a) if the finder desires to keep the dog, he shall inform the officer of this fact and shall furnish his name and address and the officer shall, having complied with the procedure (if any) prescribed under subsection (6) below, allow the finder to remove the dog;

(b) if the finder does not desire to keep the dog, the officer shall, unless he has reason to believe it is not a stray, treat it as if it had been seized by him under section 149 above.

(3) Where the finder of a dog keeps the dog by virtue of this section he must keep it for not less than one month.

(4) In Scotland a person who keeps a dog by virtue of this section for a period of two months without its being claimed by the person who has right to it shall at the end of that period become the owner of the dog.

(5) If the finder of a dog fails to comply with the requirements of subsection (1) or (3) above he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) The Secretary of State may, by regulations, prescribe the procedure to be followed under subsection (2)(a) above.

(7) In this section "local authority" and "officer" have the same meaning as in section 149 above.

England and Wales

[150.— Delivery of stray dogs to local authority officer.

(1) Any person (in this section referred to as "the finder") who takes possession of a stray dog shall forthwith either—

(a) return the dog to its owner; or

(b) take the dog—

(i) to the officer of the local authority for the area in which the dog was found;

(ii) [...]

and shall inform the officer of the local authority where the dog was found.

(2) Where a dog has been taken under subsection (1) above to the officer of a local authority, then—

(a) if the finder desires to keep the dog, he shall inform the officer of this fact and shall furnish his name and address and the officer shall, having complied with the procedure (if any) prescribed under subsection (6) below, allow the finder to remove the dog;

(b) if the finder does not desire to keep the dog, the officer shall, unless he has reason to believe it is not a stray, treat it as if it had been seized by him under section 149 above.

(3) Where the finder of a dog keeps the dog by virtue of this section he must keep it for not less than one month.

(4) In Scotland a person who keeps a dog by virtue of this section for a period of two months without its being claimed by the person who has right to it shall at the end of that period become the owner of the dog.

(5) If the finder of a dog fails to comply with the requirements of subsection (1) or (3) above he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) The Secretary of State may, by regulations, prescribe the procedure to be followed under subsection (2)(a) above.

(7) In this section "local authority" and "officer" have the same meaning as in section 149 above. **]** [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(6) para.1 (April 6, 2008)

Commencement

Pt VIII s. 150: February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 otherwise (SI 1992/266 art. 2, art. 3)

Extent

Pt VIII s. 150-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

151.— Enforcement of orders about collars and tags for dogs.

(1) Section 13 of the Animal Health Act 1981 (orders for control, etc. of dogs) shall be amended by the insertion, after subsection (2), of the following subsections—

"(3) An order under subsection (2)(a) above may include provision for the execution and enforcement of the order by the officers of local authorities (and not by the police force for any area).

(4) In subsection (3) above "local authority" and "officer" have the same meaning as in section 149 of the Environmental Protection Act 1990."

(2) In section 50(1) of that Act (meaning of "local authority") at the end there shall be inserted the words "and to section 13(3) above".

(3) In section 60(1) of that Act (enforcement), at the end, there shall be inserted the words "but subject, in the case of orders under section 13, to any provision made under subsection (3) of that section."

Commencement

Pt VIII s. 151: February 14, 1992 in so far as it enables orders or regulations to be made; April 1, 1992 otherwise (SI 1992/266 art. 2, art. 3)

Extent

Pt VIII s. 151-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Straw and stubble burning

Law In Force

152.— Burning of straw and stubble etc.

(1) The appropriate Minister may by regulations prohibit or restrict the burning of crop residues on agricultural land by persons engaged in agriculture and he may (by the same or other regulations) provide exemptions from any prohibition or restriction so imposed.

(2) Regulations providing an exemption from any prohibition or restriction may make the exemption applicable—

(a) in all, or only in specified, areas;
(b) to all, or only to specified, crop residues; or
(c) in all, or only in specified, circumstances.

(3) Any power to make regulations under this section includes power—

(a) to make different provision for different areas or circumstances;
(b) where burning of a crop residue is restricted, to impose requirements to be complied with before or after the burning;
(c) to create offences subject to the limitation that no offence shall be made punishable otherwise than on summary conviction and the fine prescribed for the offence shall not exceed level 5 on the standard scale; and
(d) to make such incidental, supplemental and transitional provision as the appropriate Minister considers appropriate.

(4) Where it appears to the appropriate Minister appropriate to do so in consequence of any regulations made under the foregoing provisions of this section, the appropriate Minister may, by order, repeal any byelaws of local authorities dealing with the burning of crop residues on agricultural land.

(5) In this section—

"agriculture" and "agricultural land" have, as respects England or as respects Wales, the same meaning as in the Agriculture Act 1947 and, as respects Scotland, the same meaning as in the Agriculture (Scotland) Act 1948;
"crop residue" means straw or stubble or any other crop residue;
"the appropriate Minister" means the Minister of Agriculture, Fisheries and Food or the Secretary of State or both of them.

Commencement

Pt VIII s. 152: July 10, 1991 (SI 1991/1319 art. 2)

Extent

Pt VIII s. 152(1)-(5) definition of "the appropriate Minister": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Environmental expenditure

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

153.— Financial assistance for environmental purposes.

(1) The Secretary of State may, with the consent of the Treasury, give financial assistance to, or for the purposes of, any of the following—

[(za) Cenex (Centre of Excellence for Low Carbon and Fuel Cell Technologies) in relation to its activities as respects England and Wales and Northern Ireland; **]** [1]

[(a) the United Nations Environment Programme;

(b) the European Environmental Bureau;

(c) the chemicals programme of the Organisation for Economic Co-operation and Development;

(d) the joint inter-Governmental panel on Climate Change of the United Nations Environment Programme and the World Meteorological Organisation;

(e) the International Union for the Conservation of Nature and Natural Resources;

(f) the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(g) the Convention on Wetlands of International Importance Especially as Waterfowl Habitat;

(h) the Convention on Long-range Transboundary Air Pollution and any protocol to that Convention;

(i) the Convention and Protocol for the Protection of the Ozone Layer;

(j) the Convention on the Conservation of Migratory Species of Wild Animals;

(k) the Groundwork Foundation and Trusts;

(l) the environmental protection technology scheme for research and development in the United Kingdom in relation to such technology;

(m) the programme known as the special grants programme so far as it relates to the protection, improvement or better understanding of the environment of, or of any part of, England and Wales;
(n) the Royal Society for the Encouragement of Arts, Manufactures and Commerce so far as its activities relate to the protection, improvement or better understanding of the environment;
(o) the programme known as the Environment Wales programme so far as it relates to the protection, improvement or better understanding of the environment of, or of any part of, Wales;
(p) the programmes or schemes of the United Nations Habitat and Human Settlements Foundation;
(q) the programmes or schemes of the International Federation for Housing and Planning so far as they relate to the protection, improvement or better understanding of the environment;
(r) the programmes or schemes of the INTA.AIVN-International Urban Development Association so far as they relate to the protection, improvement or better understanding of the environment;
(s) the scheme known as the Darwin Initiative for the Survival of Species that provides support for the conservation and sustainable use of biological resources and habitats and for the furtherance of the aims of the Convention on Biological Diversity;
(t) the programme known as the Promotion of Positive Environmental Management in Industry Programme;
(u) any national or international architectural award scheme or competition scheme relating to the protection, improvement or better understanding of the environment;
(v) the National Forest Company;
(w) the Energy Saving Trust Limited;
(x) the Convention on Biological Diversity;
(y) the United Nations Framework Convention on Climate Change;
(z) the programme known as Radon Measurement and Support for Remedial Works Campaigns in England;
(aa) the Wales Wildlife and Countryside Link;
(bb) the Convention for the Protection of the Marine Environment of the North East Atlantic;
(cc) the programme known as Pollution Emergency Response Services;
(dd) the programme known as the Waste and Resources Action Programme;
(ee) the Protocol on Energy Efficiency and Related Environmental Aspects to the Energy Charter Treaty;
(ff) the programme known as the Waste Minimisation and Recycling Programme;
(gg) the Carbon Trust;
(hh) the International Sustainable Development Fund;
(ii) the scheme known as the Bio-energy Infrastructure Scheme;
(jj) the Zero Carbon Hub Limited;
(kk) the Low Carbon Vehicle Partnership Limited, in relation to its activities as respects England and Wales;
(ll) Keep Britain Tidy;
(mm) the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972;
(nn) the International Convention for the Regulation of Whaling, 1946 **[;]**[3] **]**[2]

[(oo) any scheme, programme or organisation for the purpose of preventing or reducing waste or litter in England, or of promoting resource efficiency in England;

(pp) any scheme, programme or organisation for the storage, transport, treatment or disposal of any material or product in England for the purpose of preventing or reducing environmental damage. **]** [3]

(2) Financial assistance may be given in respect of particular activities or generally in respect of all or some part of the activities carried on or supported by the recipient.

(3) Financial assistance shall be given in such form and on such terms as the Secretary of State may think fit and, in particular, assistance may be given by making grants (whether or not repayable), loans or guarantees to, or by incurring expenditure, or providing services, staff or equipment for the benefit of, the recipient.

(4) The Secretary of State may, by order, vary subsection (1) above by adding to or deleting from it any description of organisation, scheme, programme or international agreement whose purposes relate to the protection, improvement or better understanding of the environment.

(5) **[…]**[4]

Notes

1 Added by Financial Assistance for Environmental Purposes Order 2021/984 art.2 (September 27, 2021)

2 S.153(a)-(nn) substituted for s.153(a)-(aaa) by Financial Assistance for Environmental Purposes (England and Wales) Order 2015/479 art.2 (April 1, 2015)

3 Added by Financial Assistance for Environmental Purposes (England) Order 2020/207 art.2 (March 30, 2020)

4 Repealed by Northern Ireland Act 1998 c. 47 Sch.15 para.1 (December 2, 1999: repeal has effect as SI 1999/3209 subject to savings and transitional provisions specified in 1998 c.47 Sch.14 paras 21-23)

Scotland

[153.— Financial assistance for environmental purposes.

(1) The Secretary of State may, with the consent of the Treasury, give financial assistance to, or for the purposes of, any of the following—

(a) the United Nations Environment Programme;

(b) the European Environmental Bureau;

(c) the chemicals programme of the Organisation for Economic Co-operation and Development;

(d) the joint inter-Governmental panel on Climate Change of the United Nations Environment Programme and the World Meteorological Organisation;

(e) the International Union for the Conservation of Nature and Natural Resources;

(f) the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(g) the Convention on Wetlands of International Importance Especially as Waterfowl Habitat;

(h) the Convention on Long-range Transboundary Air Pollution and any protocol to that Convention;

(i) the Convention and Protocol for the Protection of the Ozone Layer;

(j) the Convention on the Conservation of Migratory Species of Wild Animals;

(k) the Groundwork Foundation and Trusts;
(l) the environmental protection technology scheme for research and development in the United Kingdom in relation to such technology;
(m) the programme known as the special grants programme so far as it relates to the protection, improvement or better understanding of the environment of, or of any part of, Great Britain.
(n) the programmes of regional and islands councils in Scotland, as local authorities exercising functions under the Sewerage (Scotland) Act 1968, for the carrying out of works to improve the quality of inland, coastal and relevant territorial waters, as defined in section 30A of the Control of Pollution Act 1974[2], or otherwise to benefit the environment.
[(o) UK 2000 Scotland. **]** [3]
[(q) the grant programme known as the Environmental Action Fund;
(r) the programmes or schemes of the United Nations Habitat and Human Settlements Foundation;
(s) the programmes or schemes of the International Federation for Housing and Planning so far as they relate to the protection, improvement or better understanding of the environment;
(t) the programmes or schemes of the INTA.AIVN—International Urban Development Association so far as they relate to the protection, improvement or better understanding of the environment;
(u) the scheme known as the Darwin Initiative for the Survival of Species that provides support for the conservation and sustainable use of biological resources and habitats and for the furtherance of the aims of the Convention on Biological Diversity. **]** [4]
[(v) the programme known as the Promotion of Positive Environmental Management in Industry Programme. **]** [5]
[(w) any national or international architectural award scheme or competition scheme relating to the protection, improvement or better understanding of the environment;
(x) the National Forest Company. **]** [6]
[(y) the Energy Saving Trust Limited. **]** [7]
[(z) the Convention on Biological Diversity;
(aa) the United Nations Framework Convention on Climate Change. **]** [8]
[(bb) the programme known as Radon Measurement and Support for Remedial Works Campaigns in England; **]** [9]
[(cc) the programme known as the Mersey Basin Campaign, in so far as it relates to the protection, improvement or better understanding of the environment, administered by the Mersey Basin Business Foundation;
(dd) Going For Green Limited, in so far as the activities of that company relate to the protection, improvement or better understanding of the environment. **]** [10]
[(ee) the programme known as the Sustainable Action Fund. **]** [11]
(ff) **[…]**[12]
[(gg) The Wales Wildlife and Countryside Link. **]** [13]
[(hh) Environmental Campaigns Limited. **]** [14]
[(ii) the Convention for the Protection of the Marine Environment of the North East Atlantic. **]** [15]
[(jj) the programme known as Pollution Emergency Response Services;
(kk) the programme known as the Waste and Resources Action Programme;

(ll) the Protocol on Energy Efficiency and Related Environmental Aspects to the Energy Charter Treaty; **]** [16]

[(mm) Zero Waste Scotland; **]** [17]

[(nn) any scheme **[** or programme **]** [19] for the storage, treatment or disposal of any material or product for the purpose of preventing or reducing environmental damage; **]** [18]

[(oo) the programme known as the Waste Minimisation and Recycling Programme;

(pp) the Carbon Trust; **]** [20]

[(qq) the fund known as the Aggregates Levy Sustainability Fund; **]** [21]

[

[(rr) any scheme or programme for the purpose of preventing or reducing waste, or of promoting resource efficiency, including (without prejudice to those generalities) the Zero Waste programme; **]** [23]

(ss) the Carbon Trust;

(tt) any scheme for the regulation of emissions from motor vehicles. **]** [22]

[(uu) the scheme known as the Bio-energy Infrastructure Scheme for Scotland **[** ; **]** [25] **]** [24]

[(zz) the scheme known as the Community and Renewable Energy Scheme. **]** [25]

[(z1) the programme known as the Low Carbon Infrastructure Transition Programme; **]** [26]

[(z2) any programme of measures to achieve, in relation to a body of water, environmental objectives of the kind that may be set in relation to that body of water under Part 1 of the Water Environment and Water Services (Scotland) Act 2003[28] or (as the case may be) schedule 1 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004[29] ; **]** [27]

[(z3) the programme known as the Scottish Industrial Energy Transformation Fund. **]** [30]

[(aaa) the Low Carbon Vehicle Partnership Limited, in relation to its activities as respects England and Wales. **]** [31]

(2) Financial assistance may be given in respect of particular activities or generally in respect of all or some part of the activities carried on or supported by the recipient.

(3) Financial assistance shall be given in such form and on such terms as the Secretary of State may think fit and, in particular, assistance may be given by making grants (whether or not repayable), loans or guarantees to, or by incurring expenditure, or providing services, staff or equipment for the benefit of, the recipient.

(4) The Secretary of State may, by order, vary subsection (1) above by adding to or deleting from it any description of organisation, scheme, programme or international agreement whose purposes relate to the protection, improvement or better understanding of the environment.

(5) **[…]**[32]

] [1]

Notes

1 Added by Financial Assistance (Sewerage Improvements) (Scotland) Order 1991/146 art.2 (March 1, 1991)

2 1974 c. 40; section 30A was added by the Water Act 1989 (c.15), Schedule 23, paragraph 4.

3 Added by Financial Assistance (UK 2000 Scotland) (Scotland) Order 1991/1179 art.2 (June 11, 1991)

4 Added by Financial Assistance for Environmental Purposes Order 1993/1062 art.2 (May 12, 1993)

5 Added by Financial Assistance for Environmental Purposes (No. 2) Order 1993/1518 art.2 (July 15, 1993)

6 Added by Financial Assistance for Environmental Purposes Order 1995/150 art.2 (February 15, 1995)

7 Added by Financial Assistance for Environmental Purposes (No.2) Order 1995/554 art.2 (March 28, 1995)

[8] Added by Financial Assistance for Environmental Purposes (No.3) Order 1995/1085 art.2 (May 16, 1995)

[9] Substituted by Financial Assistance for EnvironmentalPurposes Order 2000/207 art.2 (March 1, 2000)

[10] Added by Financial Assistance for Environmental Purposes Order 1996/505 art.2 (April 1, 1996)

[11] Added by Financial Assistance for Environmental Purposes (No.2) Order 1996/1431 art.2 (July 1, 1996)

[12] Repealed by Financial Assistance for Environmental Purposes (Scotland) Order 2013/74 (Scottish SI) art.2(a) (April 1, 2013)

[13] Added by Financial Assistance for Environmental Purposes Order 1998/538 art.2 (April 1, 1998)

[14] Added by Financial Assistance for Environmental Purposes (No. 3) Order 1998/1001 art.2 (April 24, 1998)

[15] Added by Financial Assistance for Environmental Purposes (No.4) Order 1998/3234 art.2 (January 27, 1999)

[16] Added by Financial Assistance for Environmental Purposes (No.2) Order 2000/2211 art.2 (September 8, 2000)

[17] Substituted by Financial Assistance for Environmental Purposes (Scotland) Order 2013/74 (Scottish SI) art.2(b) (April 1, 2013)

[18] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2002/83 (Scottish SI) art.2 (March 26, 2002)

[19] Words inserted by Financial Assistance for Environmental Purposes (Scotland) Order 2013/74 (Scottish SI) art.2(c) (April 1, 2013)

[20] Added by Financial Assistance for Environmental Purposes Order 2002/1686 art.2 (July 29, 2002)

[21] Added by Financial Assistance for Environmental Purposes (No. 2) Order 2002/2021 art.2 (August 27, 2002)

[22] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2003/173 (Scottish SI) art.2 (April 1, 2003)

[23] Substituted by Financial Assistance for Environmental Purposes (Scotland) Order 2013/74 (Scottish SI) art.2(d) (April 1, 2013)

[24] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2005/324 (Scottish SI) art.2 (July 1, 2005)

[25] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2009/75 (Scottish SI) art.2 (April 6, 2009)

[26] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2015/210 (Scottish SI) art.2 (June 27, 2015)

[27] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2016/406 (Scottish SI) art.2 (February 1, 2017)

[28] Section 9, which requires environmental objectives to be set, was amended by the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), section 54(4).

[29] as relevantly amended by S.I. 2016/139. There are other amendments not relevant to this Order.

[30] Added by Financial Assistance for Environmental Purposes (Scotland) Order 2020/409 (Scottish SI) art.2 (January 28, 2021)

[31] Added by Financial Assistance for Environmental Purposes (England and Wales) Order 2009/1506 art.2 (July 15, 2009)

[32] Repealed by Northern Ireland Act 1998 c. 47 Sch.15 para.1 (December 2, 1999: repeal has effect as SI 1999/3209 subject to savings and transitional provisions specified in 1998 c.47 Sch.14 paras 21-23)

Commencement

Pt VIII s. 153: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 153(1)-(1)(j), (1)(l), (1)(n)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt VIII s. 153(1)(k), (1)(m): England, Wales, Scotland

Law In Force

154. The Groundwork Foundation: superannuation.

Employment with the Groundwork Foundation shall be and shall be deemed always to have been included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) the words "Groundwork Foundation" shall be inserted after the words "Gaming Board for Great Britain".

Commencement

Pt VIII s. 154: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 154: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

155. Remuneration of chairman of [Inland Waterways Advisory Council] [1] .

In section 110 of the Transport Act 1968 ([Inland Waterways Advisory Council] [1]) at the end there shall be inserted—

> "(7) The Secretary of State may, with the consent of the Treasury, pay the chairman of the Council out of money provided by Parliament such remuneration as the Secretary of State may determine; and where the chairman is in receipt of such remuneration he shall not be paid any allowance under subsection (6) of this section in respect of loss of remunerative time."

Notes

[1] Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 Sch.11(2) para.175(1)(b) (April 1, 2007)

Commencement

Pt VIII s. 155: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt VIII s. 155: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART IX

GENERAL

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

156.— Power to give effect to [retained EU obligations and] [1] international obligations etc.

(1) The Secretary of State may by regulations provide that the provisions to which this section applies shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—

(a) to give effect to any [retained EU obligation] [2] or exercise any related right; or

(b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party.

(2) This section applies to the following provisions of this Act—

(a) Part I;

(b) Part II;

(c) Part VI; and

(d) in Part VIII, sections 140, 141 or 142;

and the provisions of the [Environmental Authorisations (Scotland) Regulations 2018] [3].

(3) In this section—

"modifications" includes additions, alterations and omissions;

"prescribed" means prescribed in regulations under this section; and

"related right", in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.

(4) This section, in its application to Northern Ireland, has effect subject to the following modifications, that is to say—

(a) in its application in relation to Part VI and sections 140, 141, and 142, the reference to Her Majesty's Government in the United Kingdom includes a reference to Her Majesty's Government in Northern Ireland; and

(b) in its application in relation to the [Radioactive Substances Act 1993] [4], the reference to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland and the reference to Her Majesty's Government in the United Kingdom shall be construed as a reference to Her Majesty's Government in Northern Ireland;

and regulations under it made by that Department shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

Notes

[1] Words substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(8)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[2] Words substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(8)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Words substituted by Environmental Authorisations (Scotland) Regulations 2018/219 (Scottish SI) Sch.6(1) para.2(4) (September 1, 2018)

[4] Words substituted by Radioactive Substances Act 1993 c. 12 Sch.4 para.9 (August 27, 1993)

England and Wales

[156.— Power to give effect to [retained EU obligations and] [2] international obligations etc.

(1) The Secretary of State may by regulations provide that the provisions to which this section applies shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—

(a) to give effect to any [retained EU obligation] [3] or exercise any related right; or

(b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party.

(2) This section applies to the following provisions of this Act—

(a) Part I;

(b) Part II;

(c) Part VI; and

(d) in Part VIII, sections 140, 141 or 142.

(3) In this section—

"modifications" includes additions, alterations and omissions;

"prescribed" means prescribed in regulations under this section; and

"related right", in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.

(4) This section, in its application to Northern Ireland, has effect subject to the following modifications, that is to say—

(a) in its application in relation to Part VI and sections 140, 141, and 142, the reference to Her Majesty's Government in the United Kingdom includes a reference to Her Majesty's Government in Northern Ireland; and

(b) in its application in relation to the Radioactive Substances Act 1993, the reference to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland and the reference to Her Majesty's Government in the United Kingdom shall be construed as a reference to Her Majesty's Government in Northern Ireland;

and regulations under it made by that Department shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
] [1]

Notes

[1] Words repealed by Environmental Permitting (England and Wales) Regulations 2010/675 Sch.28 para.1 (April 6, 2010 immediately after the coming into force of SI 2009/3381)

[2] Words substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(8)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

[3] Words substituted by Environment (Amendment etc.) (EU Exit) Regulations 2019/458 Pt 2 reg.2(8)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Commencement

Pt IX s. 156: April 1, 1991 (1990 c. 43 Pt IX s. 164(3); SI 1991/1042 art. 2(1))

Extent

Pt IX s. 156-(4)(b): United Kingdom (extends to Northern Ireland so far as relates to Part VI and sections 140, 141 and 142 as they extend to Northern Ireland; and so far as it relates to 1960 c.34)

Law In Force

157.— Offences by bodies corporate.

(1) Where an offence under any provision of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Commencement

Pt IX s. 157: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IX s. 157(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

158. Offences under Parts I, II, IV, VI, etc. due to fault of others.

Where the commission by any person of an offence under Part I, II, IV, or VI, or section 140, 141 or 142 above is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this section whether or not proceedings for the offence are taken against the first-mentioned person.

Commencement

Pt IX s. 158: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Pt IX s. 158: United Kingdom (extends to Northern Ireland so far as it relates to Part VI and sections 140, 141 and 142 as they extend to Northern Ireland)

Law In Force

159.— Application to Crown.

(1) Subject to the provisions of this section, the provisions of this Act and of regulations and orders made under it shall bind the Crown.

(2) No contravention by the Crown of any provision of this Act or of any regulations or order made under it shall make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may, on the application of any public or local authority charged with enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in subsection (2) above, the provisions of this Act and of regulations and orders made under it shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to the premises, those powers shall not be exercisable in relation to those premises; and in this subsection "Crown premises" means premises held or used by or on behalf of the Crown.

(5) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

(6) References in this section to regulations or orders are references to regulations or orders made by statutory instrument.

(7) For the purposes of this section in its application to Part II and Part IV the authority charged with enforcing the provisions of those Parts in its area is—

(a) in the case of Part II, any waste regulation authority, and

(b) in the case of Part IV, any principal litter authority.

Commencement

Pt IX s. 159: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Pt IX s. 159(1)-(7)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

160.— Service of notices.

(1) Any notice required or authorised by or under this Act to be served on or given to an inspector may be served or given by delivering it to him or by leaving it at, or sending it by post to, his office.

(2) Any such notice required or authorised to be served on or given to a person other than an inspector may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(3) Any such notice may—

(a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;

(b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business.

(4) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—

(a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;

(b) in the case of a partnership or person having the control or the management of the partnership business, it shall be the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.

(5) If the person to be served with or given any such notice has specified an address in the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.

(6) The preceding provisions of this section shall apply to the sending or giving of a document as they apply to the giving of a notice.

Commencement

Pt IX s. 160: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IX s. 160(1)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force With Amendments Pending

[160A Regulations and orders

(1) Regulations and orders under this Act are subject to the negative procedure, other than—

(a) regulations or orders subject to the affirmative procedure by virtue of subsection (2);

(b) regulations made by a Northern Ireland department under section 156 (power to give effect to retained EU obligations and international obligations);

(c) an order under section 164(3) (commencement);

(d) an order under paragraph 4 of Schedule 3 (statutory nuisance).

(2) Regulations or orders made under a section listed in the first column of the following Table that are of the description specified in the second column are subject to the affirmative procedure—

Section	*Description of regulations or orders*
34D (prohibition on disposal of food waste to sewer: Wales)	any regulations under that section.
45AA(10) (separate collection of waste: Wales)	any regulations under that section.
78M(4) (offences of not complying with a remediation notice)	any order under that section.
79(1ZA) (statutory nuisance)	any regulations under that section.
80ZA(11) (fixed penalty notices)	any regulations under that section.
88A (litter from vehicles: England)	regulations that include provision falling within section 88A(3)(a) or (6).

(3) Regulations and orders made under this Act by the Secretary of State or the Welsh Ministers are to be made by statutory instrument, other than an order under paragraph 4 of Schedule 3.

(4) Where regulations or orders under this Act made or to be made by the Secretary of State—

(a) are subject to the negative procedure, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament;

(b) are subject to the affirmative procedure, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

(5) Where regulations or orders under this Act made or to be made by the Welsh Ministers—

(a) are subject to the negative procedure, the statutory instrument containing them is subject to annulment in pursuance of a resolution of Senedd Cymru;

(b) are subject to the affirmative procedure, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru.

(6) See sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) for the meaning of "the negative procedure" and "the affirmative procedure" in relation to regulations or orders under this Act made or to be made by the Scottish Ministers.

(7) Any provision that may be made by regulations or order under this Act subject to the negative procedure may be made subject to the affirmative procedure.
] [1]

Notes

[1] Added by Environment Act 2021 c. 30 Pt 3 s.63(2) (November 9, 2021)

Amendments Pending

Pt IX s. 160A(2): entry inserted by Environment Act 2021 c. 30, Pt 3 s. 62(9) (date to be appointed)

Pt IX s. 160A(2): entry inserted by Environment Act 2021 c. 30, Pt 3 s. 60(4) (date to be appointed)

Pt IX s. 160A(2): entry inserted by Environment Act 2021 c. 30, Pt 3 s. 57(7) (date to be appointed)

Pt IX s. 160A(2): entry inserted by Environment Act 2021 c. 30, Pt 3 s. 58(3) (January 9, 2022)

Extent

Pt IX s. 160A(1)-(7): England, Wales, Scotland

Law In Force With Amendments Pending

161.— [Directions] [1]

(1)-(4) **[…]**[2]

(5) Any power conferred by this Act to give a direction shall include power to vary or revoke the direction.

(6) Any direction given under this Act shall be in writing.

Notes

[1] Heading substituted by Environment Act 2021 c. 30 Pt 3 s.63(5)(a) (November 9, 2021)

[2] Repealed by Environment Act 2021 c. 30 Pt 3 s.63(5)(b) (November 9, 2021)

Amendments Pending

Pt IX s. 161(1): words substituted by Environment (Wales) Act 2016 anaw. 3 Pt 4 s. 69(2) (date to be appointed)

Pt IX s. 161(2A): words substituted by Environment (Wales) Act 2016 anaw. 3 Pt 4 s. 69(3) (date to be appointed)

Pt IX s. 161(2AA): added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s. 69(4) (date to be appointed)

Pt IX s. 161(2AAB): added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s. 69(4) (date to be appointed)

Pt IX s. 161(2AB): added by Environment (Wales) Act 2016 anaw. 3 Pt 4 s. 69(4) (date to be appointed)

Commencement

Pt IX s. 161: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IX s. 161(1)-(2), (2A): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pt IX s. 161(2ZC): England, Wales, Scotland

Partially In Force

162.— Consequential and minor amendments and repeals.

(1) The enactments specified in Schedule 15 to this Act shall have effect subject to the amendments specified in that Schedule.

(2) The enactments specified in Schedule 16 to this Act are hereby repealed subject to section 77 above, Schedule 11 to this Act and any provision made by way of a note in Schedule 16.

(3) The repeal of section 124 of the Civic Government (Scotland) Act 1982 shall not affect a compulsory purchase order made for the purposes of that section under the Local Government (Scotland) Act 1973 before the coming into force of the repeal and such compulsory purchase order may be proceeded with and shall have effect as if the said section 124 had not been repealed.

(4) The Secretary of State may be order repeal or amend any provision of any local Act passed before this Act (including an Act confirming a provisional order) or of any order or other instrument made under an Act so passed if it appears to him that the provision is inconsistent with, or has become unnecessary or requires alteration in consequence of, any provision of this Act or corresponds to any provision repealed by this Act.

(5) Any regulations made under section 100 of the Control of Pollution Act 1974 shall have effect after the repeal of that section by subsection (2) above as if made under section 140 of this Act.

Commencement

Pt IX s. 162(1): January 1, 1991 for provisions specified in 1990 c.43 s.164(2); January 14, 1991 for provisions specified in SI 1991/96 art.2; April 1, 1991 for provisions specified in SI 1991/1042 art.2(1); May 31, 1991 for provisions specified in SI 1991/1319 art.2; April 1, 1992 for provisions specified in SI 1991/2829 art.4; April 1, 1992 for provisions specified in SI 1992/266 art.3; February 18, 1993 for the provision specified in SI 1993/274 art.2(1); May 1, 1994 for the provision specified in SI 1994/1096 art.2(1); May 1, 1994 for the provision specified in SI 1994/1096 art.2(3) save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2) in which case commencement shall be determined in accordance with the provisions of art.3; not yet in force otherwise (1990 c. 43 Pt IX s. 164(2); SI 1991/96 art. 2; SI 1991/1042 art. 2(1); SI 1991/1319 art. 2; SI 1991/2829 art. 4; SI 1992/266 art. 3; SI 1993/274 art. 2(1); SI 1994/1096 art. 2, art. 2(1), art. 3)

Pt IX s. 162(2): January 1, 1991 for repeals specified in 1990 c.43 s.164(2) and SI 1990/2635 art.3; April 1, 1991 for repeals specified in SI 1991/685 art.3 and SI 1991/1042 art.2(1); May 31, 1991 for repeals specified in SI 1991/1319 art.2; January 1, 1992 for repeals specified in SI 1991/2829 art.3; April 1, 1992 for repeals specified in SI 1992/266 art.3; February 18, 1993 for repeals specified in SI 1993/274 art.2(1); May 1, 1993 for the repeal specified in SI 1993/274 art.3; May 1, 1994 for repeals specified in SI 1994/1096 art.2(1) and art.2(3) save for the purposes of their application to certain activities specified in SI 1994/1096 art.2(2) in which case commencement shall be determined in accordance with the provisions of art.3; December 1, 1994 for the repeal specified in SI 1994/2854 art.2(1) in relation to defined activities at that date or, if later, the date specified in art.2(1)(b); December 16, 1996 for repeals specified in SI 1996/3056 art.2 in relation to England and Wales; April 1, 2012 for the repeal specified in SI 2012/898 art.2; April 1, 2015 in relation to Scotland for repeals specified in SSI 2015/72 art.2; not yet in force otherwise (SSI 2015/72 art. 2; 1990 c. 43 Pt IX s. 164(2); SI 1990/2635 art. 3; SI 1991/1042 art. 2(1); SI 1991/1319 art. 2; SI 1991/2829 art.

3; SI 1992/266 art. 3; SI 1993/274 art. 2(1), art. 3; SI 1994/1096 art. 2, art. 2(1), art. 3; SI 1994/2854 art. 2(1); SI 1996/3056 art. 2; SI 2012/898 art. 2)

Pt IX s. 162(3): April 1, 1992 (SI 1992/266 art. 3, art. 3(c))

Pt IX s. 162(4): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Pt IX s. 162(5): January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IX s. 162(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

163.— Financial provisions.

(1) There shall be paid out of money provided by Parliament—

(a) any administrative or other expenses incurred by any Minister of the Crown in consequence of the provisions of this Act; and

(b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

(2) Any fees or other sums received by any Minister of the Crown by virtue of any provisions of this Act shall be paid into the Consolidated Fund.

Commencement

Pt IX s. 163: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Pt IX s. 163(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

163A […][1]

Notes

[1] Repealed by Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188 Pt IX reg.41 (December 31, 2002)

Law In Force With Amendments Pending

164.— Short title, commencement and extent.

(1) This Act may be cited as the Environmental Protection Act 1990.

(2) The following provisions of the Act shall come into force at the end of the period of two months beginning with the day on which it is passed, namely—

sections 79 to 85;
section 97;
section 99;
section 105 in so far as it relates to paragraphs 7, 13, 14 and 15 of Schedule 5;
section 140;
section 141;
section 142;
section 145;
section 146;
section 148;
section 153;
section 154;
section 155;
section 157;
section 160;
section 161;
section 162(1) in so far as it relates to paragraphs 4, 5, 7, 8, 9, 18, 22, 24 and 31(4)(b) of Schedule 15; but, in the case of paragraph 22, in so far only as that paragraph inserts a paragraph (m) into section 7(4) of the Act of 1984;
section 162(2) in so far as it relates to Part III of Schedule 16 and, in Part IX of that Schedule, the repeal of section 100 of the Control of Pollution Act 1974;
section 162(5);
section 163.

(3) The remainder of this Act (except this section) shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions or different purposes.

(4) Only the following provisions of this Act (together with this section) extend to Northern Ireland, namely—

section 3(5) to (8);
section 62(2)(e) in so far as it relates to importation;
Part V;
Part VI in so far as it relates to importation and, without that restriction, section 127(2) in so far as it relates to the continental shelf;
section 140 in so far as it relates to importation;
section 141;
section 142 in so far as it relates to importation;
section 146;
section 147;
section 148;
section 153 except subsection (1)(k) and (m);
section 156 in so far as it relates to Part VI and sections 140, 141 and 142 in so far as they extend to Northern Ireland and in so far as it relates to the Radioactive Substances Act 1960;
section 158 in so far as it relates to Part VI and sections 140, 141 and 142 in so far as they extend to Northern Ireland.

[(4A) Sections 45A, 45B and 47A do not extend to Scotland. **]** [1]

(5) Where any enactment amended or repealed by this Act extends to any part of the United Kingdom, the amendment or repeal extends to that part, subject, however, to any express provision in Schedule 15 or 16.

Notes

[1] Added by Household Waste Recycling Act 2003 c. 29 s.4 (December 30, 2003)

Amendments Pending

Pt IX s. 164(4): words repealed by Environment (Northern Ireland) Order 2002/3153 Sch. 6(I) para. 1 (date to be appointed)

Commencement

Pt IX s. 164: November 1, 1990

Extent

Pt IX s. 164(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

SCHEDULE 1

AUTHORISATIONS FOR PROCESSES: SUPPLEMENTARY PROVISIONS

Section 6

PART I

GRANT OF AUTHORISATIONS

Applications for authorisations

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

1.—

(1) An application to the enforcing authority for an authorisation must contain such information, and be made in such manner, as may be prescribed in regulations made by the Secretary of State.

(2) An application to the enforcing authority for an authorisation must also, unless regulations made by the Secretary of State exempt applications of that class, be advertised in such manner as may be prescribed in regulations so made.

(3) The enforcing authority may, by notice in writing to the applicant, require him to furnish such further information specified in the notice, within the period so specified, as the authority may require for the purpose of determining the application.

(4) If a person fails to furnish any information required under sub-paragraph (3) above within the period specified thereunder the enforcing authority may refuse to proceed with the application.

(5) Regulations under this paragraph may make different provision for different classes of applications.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(I) para. 1: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(I) para. 1: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(I) para. 1(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Determination of applications

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

2.—

(1) Subject to sub-paragraph (2) below, the enforcing authority shall give notice of any application for an authorisation, enclosing a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification.

(2) The Secretary of State may, by regulations, exempt any class of application from the requirements of this paragraph or exclude any class of information contained in applications for authorisations from those requirements, in all cases or as respects specified classes only of persons to be consulted.

(3) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in determining the application.

(4) For the purposes of sub-paragraph (1) above—

(a) persons are prescribed to be consulted on any description of application for an authorisation if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;

(b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the enforcing authority;

and the "specified period for notification" is the period specified in the regulations or in the direction.

(5) Any representations made by any other persons within the period allowed shall also be considered by the enforcing authority in determining the application.

(6) Subject to sub-paragraph (7) below, the period allowed for making representations is—

(a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice of the application was given under sub-paragraph (1) above, and

(b) in the case of other persons, the period of twenty-eight days beginning with the date on which the making of the application was advertised in pursuance of paragraph 1(2) above.

(7) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (6)(a) or (b) above, such other period as he considers appropriate.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(I) para. 2: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(I) para. 2: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(I) para. 2(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

3.—

(1) The Secretary of State may give directions to the enforcing authority requiring that any particular application or any class of applications for an authorisation shall be transmitted to him for determination pending a further direction under sub-paragraph (5) below.

(2) The enforcing authority shall inform the applicant of the fact that his application is being transmitted to the Secretary of State.

(3) Where an application for an authorisation is referred to him under sub-paragraph (1) above the Secretary of State may—

(a) cause a local inquiry to be held in relation to the application; or

(b) afford the applicant and the authority concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State;

and he shall exercise one of the powers under this sub-paragraph in any case where, in the manner prescribed by regulations made by the Secretary of State, a request is made to be heard with respect to the application by the applicant or **[** the enforcing authority **]** [1] concerned.

(4) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (supplementary provisions about local inquiries under that section) or, in relation to Scotland, subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (which make similar provision) shall, without prejudice to the generality of subsection (1) of either of those sections, apply to inquiries in pursuance of sub-paragraph (3) above as they apply to inquiries in pursuance of either of those sections and, in relation to England and Wales, as if the reference to a local authority in subsection (4) of the said section 250 included a reference to the enforcing authority.

(5) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the enforcing authority such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the authorisation.

Notes

[1] Words substituted by Environment Act 1995 c. 25 Sch.22 para.93(2) (April 1, 1996)

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(I) para. 3: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(I) para. 3: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(I) para. 3(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

4.

The Secretary of State may give the enforcing authority a direction with respect to any particular application or any class of applications for an authorisation requiring the authority not to determine or not to proceed with the application or applications of that class until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that they may do so, as the case may be.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(I) para. 4: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(I) para. 4: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(I) para. 4: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

5.—

(1) Except in a case where an application has been referred to the Secretary of State under paragraph 3 above and subject to sub-paragraph (3) below, the enforcing authority shall determine an application for an authorisation within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.

(2) If the enforcing authority fails to determine an application for an authorisation within the period allowed by or under this paragraph the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(3) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (1) above such other period as he considers appropriate and different periods may be substituted for different classes of application.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(I) para. 5: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(I) para. 5: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(I) para. 5(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART II

VARIATION OF AUTHORISATIONS

Variations by the enforcing authority

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

6.—

(1) **[** Except as provided by sub-paragraph (1A) below, **]** [1] **[** t **]** [1] he requirements of this paragraph apply where an enforcing authority has decided to vary an authorisation under section 10 and is of the opinion that any action to be taken by the holder of the authorisation in consequence of the variation will involve a substantial change in the manner in which the process is being carried on.

[(1A) The requirements of this paragraph shall not apply in relation to any variations of an authorisation which an enforcing authority has decided to make in consequence of representations made in accordance with this paragraph and which are specified by way of variation of a variation notice by a further notice under section 10(3A) of this Act. **]** [2]

(2) Subject to sub-paragraph (3) below, the enforcing authority shall give notice of the action to be taken by the holder of the authorisation to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification; and the holder shall advertise the action in the manner prescribed in regulations made by the Secretary of State.

(3) The Secretary of State may, by regulations, exempt any class of variation from all or any of the requirements of this paragraph or exclude any class of information relating to action to be taken by holders of authorisations from all or any of those requirements, in all cases or as respects specified classes only of persons to be consulted.

(4) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in taking its decision.

(5) For the purposes of sub-paragraph (2) above—

(a) persons are prescribed to be consulted on any description of variation if they are persons specified for the purposes of variations of that description in regulations made by the Secretary of State;

(b) persons are directed to be consulted on any particular variation if the Secretary of State specifies them in a direction given to the enforcing authority;

and the "specified period for notification" is the period specified in the regulations or in the direction.

(6) Any representations made by any other persons within the period allowed shall also be considered by the enforcing authority in taking its decision.

(7) Subject to sub-paragraph (8) below, the period allowed for making representations is—

(a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice was given under sub-paragraph (2) above, and

(b) in the case of other persons, the period of twenty-eight days beginning with the date of the advertisement under sub-paragraph (2) above.

(8) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (7)(a) or (b) above, such other period as he considers appropriate.

Notes

[1] Words inserted by Environment Act 1995 c. 25 Sch.22 para.93(3) (April 1, 1996)

[2] Added by Environment Act 1995 c. 25 Sch.22 para.93(4) (April 1, 1996)

Scotland

[...][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(II) para. 6: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(II) para. 6: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(II) para. 6(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Applications for variation

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

7.—

(1) The requirements of this paragraph apply where an application is made to an enforcing authority under section 11(4) for the variation of an authorisation.

(2) Subject to sub-paragraph (3) below, the enforcing authority shall give notice of any such application for a variation of an authorisation, enclosing a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification; and the holder of the authorisation shall advertise the application in the manner prescribed in regulations made by the Secretary of State.

(3) The Secretary of State may, by regulations, exempt any class of application from all or any of the requirements of this paragraph or exclude any class of information furnished with applications for variations of authorisations from all or any of those requirements, in all cases or as respects specified classes only of persons to be consulted.

(4) Any representations made by the persons so consulted within the period allowed shall be considered by the enforcing authority in determining the application.

(5) For the purposes of sub-paragraph (2) above—

(a) persons are prescribed to be consulted on any description of application for a variation if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;

(b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the enforcing authority;

and the "specified period for notification" is the period specified in the regulations or in the direction.

(6) Any representation made by any other persons within the period allowed shall also be considered by the enforcing authority in determining the application.

(7) Subject to sub-paragraph (8) below, the period allowed for making representations is—

(a) in the case of persons prescribed or directed to be consulted, the period of twenty-eight days beginning with the date on which notice of the application was given under sub-paragraph (2) above; and

(b) in the case of other persons, the period of twenty-eight days beginning with the date on which the making of the application was advertised in pursuance of sub-paragraph (2) above.

(8) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (7)(a) or (b) above, such other period as he considers appropriate.

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(II) para. 7: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Commencement

Sch. 1(II) para. 7: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 1(II) para. 7(1)-(8): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

[Call in of applications for variation] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.93(5) (April 1, 1996)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

[8.—

(1) The Secretary of State may give directions to the enforcing authority requiring that any particular application or any class of applications for the variation of an authorisation shall be transmitted to him for determination pending a further direction under sub-paragraph (5) below.

(2) The enforcing authority shall inform the applicant of the fact that his application is being transmitted to the Secretary of State.

(3) Where an application for the variation of an authorisation is referred to him under sub-paragraph (1) above the Secretary of State may—

(a) cause a local inquiry to be held in relation to the application; or

(b) afford the applicant and the authority concerned an opportunity of appearing before and being heard by a person appointed by the Secretary of State;

and he shall exercise one of the powers under this sub-paragraph in any case where, in the manner prescribed by regulations made by the Secretary of State, a request is made to be heard with respect to the application by the applicant or the enforcing authority concerned.

(4) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (supplementary provisions about local inquiries under that section) or, in relation to Scotland, subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (which make similar provision) shall, without prejudice to the generality of subsection (1) of either of those sections, apply to local inquiries or other hearings in pursuance of sub-paragraph (3) above as they apply to inquiries in pursuance of either of those sections and, in relation to England and Wales, as if the reference to a local authority in subsection (4) of the said section 250 included a reference to the enforcing authority.

(5) The Secretary of State shall, on determining any application transferred to him under this paragraph, give to the enforcing authority such a direction as he thinks fit as to whether it is to grant the application and, if so, as to the conditions that are to be attached to the authorisation by means of the variation notice.

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.93(5) (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(II) para. 8: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Extent

Sch. 1(II) para. 8(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

[9.
The Secretary of State may give the enforcing authority a direction with respect to any particular application or any class of applications for the variation of an authorisation requiring the authority not to determine or not to proceed with the application or applications of that class until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that they may do so, as the case may be.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.93(5) (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(II) para. 9: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Extent

Sch. 1(II) para. 9: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed With Amendments Pending

England and Wales

[10.—

(1) Except in a case where an application for the variation of an authorisation has been referred to the Secretary of State under paragraph 8 above and subject to sub-paragraph (3) below, the enforcing authority shall determine an application for the variation of an authorisation within the period of four months beginning with the day on which it received the application or within such longer period as may be agreed with the applicant.

(2) If the enforcing authority fails to determine an application for the variation of an authorisation within the period allowed by or under this paragraph the application shall, if the applicant notifies the authority in writing that he treats the failure as such, be deemed to have been refused at the end of that period.

(3) The Secretary of State may, by order, substitute for the period for the time being specified in sub-paragraph (1) above such other period as he considers appropriate and different periods may be substituted for different classes of application.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.93(5) (April 1, 1996)

Scotland

[…][1]

Notes

[1] Repealed by Pollution Prevention and Control Act 1999 c. 24 Sch.3 para.1 (April 1, 2015: as SSI 2015/74)

Amendments Pending

Sch. 1(II) para. 10: repealed by Pollution Prevention and Control Act 1999 c. 24 Sch. 3 para. 1 (date to be appointed)

Extent

Sch. 1(II) para. 10(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

SCHEDULE 2

WASTE DISPOSAL AUTHORITIES AND COMPANIES

Section 32

PART I

TRANSITION TO COMPANIES

Preliminary

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

1. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Notice of direction

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

2.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Applications for exemption from and representations about directions

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

3.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Directions

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

4.— [...][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Formation and status of companies

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

5.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Transfer schemes

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

6.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Transfer schemes: supplementary provisions

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

7. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

8.— [...][1]

Notes

1 Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Tax and company provisions

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

9.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Benefit of certain planning permission

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

10.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Right to production of documents of title

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

11. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Proof of title by certificate

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

12.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Construction of agreements

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

13. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

14. [...][1]

Notes

1 Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

1 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Third parties affected by vesting provisions

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

15.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Transfer of staff

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

16.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Information for purposes of transfer scheme

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

17.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

PART II

PROVISIONS REGULATING WASTE DISPOSAL AUTHORITIES AND COMPANIES

Terms of waste disposal contracts

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

18. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

19.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Procedure for putting waste disposal contracts out to tender

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

20.— [...][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[...][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

21. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Variation of waste disposal contracts

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

22. […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

Avoidance of restrictions on transfer of securities of companies

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland and Wales | England

Repealed

Scotland and Wales

23.— […][1]

Notes

[1] Repealed subject to savings specified in SI 2006/768 art.5 by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 5 c.2 s.47 (March 16, 2006: repeal has effect as SI 2006/768 subject to savings specified in SI 2006/768 art.5)

England

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(4) para.1 (October 18, 2005: repeal has effect as SI 2005/2896 subject to savings specified in SI 2005/2896 art.6)

[SCHEDULE 2A

OBJECTIVES FOR THE PURPOSES OF THE NATIONAL WASTE STRATEGY

Sections 44A and 44B

] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.12 para.1 (April 1, 1996)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

1. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(a) (March 23, 2007)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

2. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[...][1]

Notes

[1] Repealed by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(a) (March 23, 2007)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

3. [...][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[...][1]

Notes

[1] Repealed by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(a) (March 23, 2007)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

4. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(a) (March 23, 2007)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

5. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed by National Waste Management Plan for Scotland Regulations 2007/251 (Scottish SI) Pt 4 reg.8(1)(a) (March 23, 2007)

[SCHEDULE 2B

[CATEGORIES OF WASTE][2]

[Section 75] [2]] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.22 para.95 (January 1, 2005: as SSI 2004/541)

[2] Inserted by Environment Act 1995 c. 25 Sch.22 para.95 (May 15, 2006 as SI 2006/934)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

1. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

2. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

3. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

4. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

5. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

6. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

7. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[...][1]

Notes

1 Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

8. [...][1]

Notes

1 Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[...][1]

Notes

1 Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

9. [...][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[...][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

10. [...][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[...][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

11. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

12. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

13. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

14. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

15. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Repealed

England and Wales

16. […][1]

Notes

[1] Repealed by Waste (England and Wales) Regulations 2011/988 Sch.4(1) para.3(9) (March 29, 2011)

Scotland

[…][1]

Notes

[1] Repealed on the repeal of the introductory section, s. 75(10) by Waste (Scotland) Regulations 2011/226 (Scottish SI) reg.2(12)(c) (March 27, 2011)

SCHEDULE 3

STATUTORY NUISANCES: SUPPLEMENTARY PROVISIONS

Section 81

Appeals to magistrates' court

Law In Force

1.—

(1) This paragraph applies in relation to appeals under section 80(3) against an abatement notice to a magistrates' court.

(2) An appeal to which this paragraph applies shall be by way of complaint for an order and the Magistrates' Courts Act 1980 shall apply to the proceedings.

(3) An appeal against any decision of a magistrates' court in pursuance of an appeal to which this paragraph applies shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given.

(4) The Secretary of State may make regulations as to appeals to which this paragraph applies and the regulations may in particular—

(a) include provisions comparable to those in section 290 of the Public Health Act 1936 (appeals against notices requiring the execution of works);

(b) prescribe the cases in which an abatement notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;

(c) prescribe the cases in which the decision on appeal may in some respects be less favourable to the appellant than the decision from which he is appealing;

(d) prescribe the cases in which the appellant may claim that an abatement notice should have been served on some other person and prescribe the procedure to be followed in those cases.

Commencement

Sch. 3 para. 1: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 3 para. 1(1)-(4)(d): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

[Appeals to Sheriff] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.17 para.7(a) (April 1, 1996)

Law In Force

[1A.—

(1) This paragraph applies in relation to appeals to the sheriff under section 80(3) against an abatement notice.

(2) An appeal to which this paragraph applies shall be by way of a summary application.

(3) The Secretary of State may make regulations as to appeals to which this paragraph applies and the regulations may in particular include or prescribe any of the matters referred to in sub-paragraphs (4)(a) to (d) of paragraph 1 above.
] [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.17 para.7(a) (April 1, 1996)

Extent

Sch. 3 para. 1A(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Powers of entry etc

Law In Force

2.—

(1) Subject to sub-paragraph (2) below, any person authorised by a local authority may, on production (if so required) of his authority, enter any premises at any reasonable time—

(a) for the purpose of ascertaining whether or not a statutory nuisance exists; or
(b) for the purpose of taking any action, or executing any work, authorised or required by Part III.

(2) Admission by virtue of sub-paragraph (1) above to any premises used wholly or mainly for residential purposes shall not except in an emergency be demanded as of right unless twenty-four hours notice of the intended entry has been given to the occupier.

(3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
(a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of emergency, or that an application for admission would defeat the object of the entry; and
(b) that there is reasonable ground for entry into the premises for the purpose for which entry is required,
the justice may by warrant under his hand authorise the local authority by any authorised person to enter the premises, if need be by force.

(4) An authorised person entering any premises by virtue of sub-paragraph (1) or a warrant under sub-paragraph (3) above may—
(a) take with him such other persons and such equipment as may be necessary;
(b) carry out such inspections, measurements and tests as he considers necessary for the discharge of any of the local authority's functions under Part III; and
(c) take away such samples or articles as he considers necessary for that purpose.

(5) On leaving any unoccupied premises which he has entered by virtue of sub-paragraph (1) above or a warrant under sub-paragraph (3) above the authorised person shall leave them as effectually secured against trespassers as he found them.

(6) A warrant issued in pursuance of sub-paragraph (3) above shall continue in force until the purpose for which the entry is required has been satisfied.

(7) Any reference in this paragraph to an emergency is a reference to a case where the person requiring entry has reasonable cause to believe that circumstances exist which are likely to endanger life or health and that immediate entry is necessary to verify the existence of those circumstances or to ascertain their cause and to effect a remedy.

[(8) In the application of this paragraph to Scotland, a reference to a justice of the peace or to a justice includes a reference to the sheriff. **]** [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.17 para.7(b) (April 1, 1996)

Commencement

Sch. 3 para. 2: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 3 para. 2(1)-(7): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

[2A.—

(1) Any person authorised by a local authority may on production (if so required) of his authority—

(a) enter or open a vehicle, machinery or equipment, if necessary by force, or

(b) remove a vehicle, machinery or equipment from a street **[** or, in Scotland, road **]**[2] to a secure place,

for the purpose of taking any action, or executing any work, authorised by or required under Part III in relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by the vehicle, machinery or equipment.

(2) On leaving any unattended vehicle, machinery or equipment that he has entered or opened under sub-paragraph (1) above, the authorised person shall (subject to sub-paragraph (3) below) leave it secured against interference or theft in such manner and as effectually as he found it.

(3) If the authorised person is unable to comply with sub-paragraph (2) above, he shall for the purpose of securing the unattended vehicle, machinery or equipment either—

(a) immobilise it by such means as he considers expedient, or

(b) remove it from the street to a secure place.

(4) In carrying out any function under sub-paragraph (1), (2) or (3) above, the authorised person shall not cause more damage than is necessary.

(5) Before a vehicle, machinery or equipment is entered, opened or removed under sub-paragraph (1) above, the local authority shall notify the police of the intention to take action under that sub-paragraph.

(6) After a vehicle, machinery or equipment has been removed under sub-paragraph (1) or (3) above, the local authority shall notify the police of its removal and current location.

(7) Notification under sub-paragraph (5) or (6) above may be given to the police at any police station in the local authority's area or, in the case of the Temples, at any police station of the City of London Police.

(8) For the purposes of section 81(4) above, any expenses reasonably incurred by a local authority under sub-paragraph (2) or (3) above shall be treated as incurred by the authority under section 81(3) above in abating or preventing the recurrence of the statutory nuisance in question.
][1]

Notes

[1] Added by Noise and Statutory Nuisance Act 1993 c. 40 s.4(5) (January 5, 1994)

[2] Words inserted by Environment Act 1995 c. 25 Sch.17 para.7(c) (April 1, 1996)

Extent

Sch. 3 para. 2A: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Offences relating to entry

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

3.—

(1) A person who wilfully obstructs any person acting in the exercise of any powers conferred by paragraph 2 above shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) If a person discloses any information relating to any trade secret obtained in the exercise of any powers conferred by paragraph 2 above he shall, unless the disclosure was made in the performance of his duty or with the consent of the person having the right to disclose the information, be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

England and Wales

[3.—

(1) A person who wilfully obstructs any person acting in the exercise of any powers conferred by paragraph 2 or 2A above shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) If a person discloses any information relating to any trade secret obtained in the exercise of any powers conferred by paragraph 2 above he shall, unless the disclosure was made in the performance of his duty or with the consent of the person having the right to disclose the information, be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
] [1]

Notes

[1] Words inserted by Noise and Statutory Nuisance Act 1993 c. 40 s.4(6) (January 5, 1994)

Commencement

Sch. 3 para. 3: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 3 para. 3(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Default powers

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Law In Force

Scotland

4.—

(1) This paragraph applies to the following function of a local authority, that is to say its duty under section 79 to cause its area to be inspected to detect any statutory nuisance which ought to be dealt with under section 80 and its powers under paragraph 2 above.

(2) If the Secretary of State is satisfied that any local authority has failed, in any respect, to discharge the function to which this paragraph applies which it ought to have discharged, he may make an order declaring the authority to be in default.

(3) An order made under sub-paragraph (2) above which declares an authority to be in default may, for the purpose of remedying the default, direct the authority ("the defaulting authority") to perform the function specified in the order and may specify the manner in which and the time or times within which the function is to be performed by the authority.

(4) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself the function of the authority specified in the order.

(5) Where the function of a defaulting authority is transferred under sub-paragraph (4) above, the amount of any expenses which the Secretary of State certifies were incurred by him in performing the function shall on demand be paid to him by the defaulting authority.

(6) Any expenses required to be paid by a defaulting authority under sub-paragraph (5) above shall be defrayed by the authority in like manner, and shall be debited to the like account, as if the function had not been transferred and the expenses had been incurred by the authority in performing them.

(7) The Secretary of State may by order vary or revoke any order previously made by him under this paragraph.

(8) Any order under this paragraph may include such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate.

[(9) This paragraph does not apply to Scotland. **]** [1]

Notes

[1] Added by Environment Act 1995 c. 25 Sch.17 para.7(d) (April 1, 1996)

England and Wales

[4.—

(1) This paragraph applies to the following function of a local authority, that is to say its duty under section 79 to cause its area to be inspected to detect any statutory nuisance which ought to be dealt with under section 80 or sections 80 and 80A and its powers under paragraph 2 or 2A above.

(2) If the Secretary of State is satisfied that any local authority has failed, in any respect, to discharge the function to which this paragraph applies which it ought to have discharged, he may make an order declaring the authority to be in default.

(3) An order made under sub-paragraph (2) above which declares an authority to be in default may, for the purpose of remedying the default, direct the authority ("the defaulting authority") to perform the function specified in the order and may specify the manner in which and the time or times within which the function is to be performed by the authority.

(4) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself the function of the authority specified in the order.

(5) Where the function of a defaulting authority is transferred under sub-paragraph (4) above, the amount of any expenses which the Secretary of State certifies were incurred by him in performing the function shall on demand be paid to him by the defaulting authority.

(6) Any expenses required to be paid by a defaulting authority under sub-paragraph (5) above shall be defrayed by the authority in like manner, and shall be debited to the like account, as if the function had not been transferred and the expenses had been incurred by the authority in performing them.

(7) The Secretary of State may by order vary or revoke any order previously made by him under this paragraph.

(8) Any order under this paragraph may include such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate.

[(9) This paragraph does not apply to Scotland. **]** [2]
] [1]

Notes

[1] Amended by Noise and Statutory Nuisance Act 1993 c. 40 s.4(7) (January 5, 1994)

[2] Added by Environment Act 1995 c. 25 Sch.17 para.7(d) (April 1, 1996)

Commencement

Sch. 3 para. 4: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 3 para. 4(1)-(9): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Protection from personal liability

Law In Force

5.
Nothing done by, or by a member of, a local authority or by any officer of or other person authorised by a local authority shall, if done in good faith for the purpose of executing Part III , subject them or any of them personally to any action, liability, claim or demand whatsoever **[…]**[1] .

Notes

[1] Words repealed by Local Audit and Accountability Act 2014 c. 2 Sch.12 para.26 (April 1, 2015)

Commencement

Sch. 3 para. 5: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 3 para. 5: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Statement of right of appeal in notices

Law In Force

6.
Where an appeal against a notice served by a local authority lies to a magistrates' court **[** or, in Scotland, the sheriff **]**[1] by virtue of section 80, it shall be the duty of the authority to include in such a notice a statement indicating that such an appeal lies as aforesaid and specifying the time within which it must be brought.

Notes

[1] Words inserted by Environment Act 1995 c. 25 Sch.17 para.7(e) (April 1, 1996)

Commencement

Sch. 3 para. 6: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 3 para. 6: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

[SCHEDULE 3A

FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED LAND

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[1 Offence of unauthorised distribution

(1) A person commits an offence if he distributes any free printed matter without the consent of a principal litter authority on any land which is designated by the authority under this Schedule, where the person knows that the land is so designated.

(2) A person commits an offence if he causes another person to distribute any free printed matter without the consent of a principal litter authority on any land designated by the authority under this Schedule.

(3) A person is not guilty of an offence under sub-paragraph (2) if he took reasonable steps to ensure that the distribution did not occur on any land designated under this Schedule.

(4) Nothing in this paragraph applies to the distribution of printed matter–

(a) by or on behalf of a charity **[…]**[2] , where the printed matter relates to or is intended for the benefit of the charity;

(b) where the distribution is for political purposes or for the purposes of a religion or belief.

(5) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) For the purposes of this Schedule–

(a) to “distribute” printed matter means to give it out to, or offer or make it available to, members of the public and includes placing it on or affixing it to vehicles, but does not include putting it inside a building or letter-box;

(b) printed matter is "free" if it is distributed without charge to the persons to whom it is distributed.

(7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981).
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

[2] Words repealed by Charities (Pre-consolidation Amendments) Order 2011/1396 Sch.1(4) para.37(2)(e) (March 14, 2012 immediately before 2011 c.25)

England

[1 Offence of unauthorised distribution

(1) A person commits an offence if he distributes any free printed matter without the consent of a principal litter authority on any land which is designated by the authority under this Schedule, where the person knows that the land is so designated.

(2) A person commits an offence if he causes another person to distribute any free printed matter without the consent of a principal litter authority on any land designated by the authority under this Schedule.

(3) A person is not guilty of an offence under sub-paragraph (2) if he took reasonable steps to ensure that the distribution did not occur on any land designated under this Schedule.

(4) Nothing in this paragraph applies to the distribution of printed matter–

(a) by or on behalf of a charity **[…]** [2] , where the printed matter relates to or is intended for the benefit of the charity;

(b) where the distribution is for political purposes or for the purposes of a religion or belief.

(5) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) For the purposes of this Schedule–

(a) to "distribute" printed matter means to give it out to, or offer or make it available to, members of the public and includes placing it on or affixing it to vehicles, but does not include putting it inside a building or letter-box;

(b) printed matter is "free" if it is distributed without charge to the persons to whom it is distributed.

(7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981).
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

[2] Words repealed by Charities (Pre-consolidation Amendments) Order 2011/1396 Sch.1(4) para.37(2)(e) (March 14, 2012 immediately before 2011 c.25)

Extent

Sch. 3A para. 1(1)-(7): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[2 Designation

(1) A principal litter authority may by order in accordance with this paragraph designate land in its area for the purposes of this Schedule.

(2) The land designated must consist of–

(a) relevant land of the authority;

(b) all or part of any relevant highway for which the authority is responsible; or

(c) both.

(3) A principal litter authority may only designate land where it is satisfied that the land is being defaced by the discarding of free printed matter which has been distributed there.

(4) Where a principal litter authority proposes to make an order under sub-paragraph (1) above in respect of any land, it must–

(a) publish a notice of its proposal in at least one newspaper circulating in an area which includes the land; and

(b) post such a notice on the land.

(5) A notice under sub-paragraph (4) above must specify–

(a) the land proposed to be designated;

(b) the date on which it is proposed that the order is to come into force (which may not be earlier than the end of a period of 28 days beginning with the day on which the notice is given);

(c) the fact that objections may be made to the proposal, how they may be made and the period within which they may be made (being a period of at least 14 days beginning with the day on which the notice is given).

(6) Where after giving notice under sub-paragraph (4) above and taking into account any objections duly made pursuant to sub-paragraph (5)(c) above an authority decides to make an order under sub-paragraph (1) above in respect of any or all of the land in respect of which the notice was given, the authority must–

(a) publish a notice of its decision in at least one newspaper circulating in an area which includes the land; and

(b) post such a notice on the land.

(7) A notice under sub-paragraph (6) above must specify the date on which the order is to come into force, being a date not earlier than–

(a) the end of the period of 14 days beginning with the day on which the notice is given; and

(b) the date referred to in sub-paragraph (5)(b) above.

(8) A principal litter authority may at any time revoke an order under sub-paragraph (1) above in respect of any land to which the order relates.

(9) A principal litter authority must–

(a) publish a notice of any revocation under sub-paragraph (8) above in at least one newspaper circulating in an area which includes the land in question; and

(b) post such a notice on the land.

(10) Sub-paragraph (1) above does not apply to an English county council for an area for which there is a district council.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

England

[2 Designation

(1) A principal litter authority may by order in accordance with this paragraph designate land in its area for the purposes of this Schedule.

(2) The land designated must consist of–

(a) relevant land of the authority;

(b) all or part of any relevant highway for which the authority is responsible; or

(c) both.

(3) A principal litter authority may only designate land where it is satisfied that the land is being defaced by the discarding of free printed matter which has been distributed there.

(4) Where a principal litter authority proposes to make an order under sub-paragraph (1) above in respect of any land, it must–

(a) publish a notice of its proposal in at least one newspaper circulating in an area which includes the land; and

(b) post such a notice on the land.

(5) A notice under sub-paragraph (4) above must specify–

(a) the land proposed to be designated;

(b) the date on which it is proposed that the order is to come into force (which may not be earlier than the end of a period of 28 days beginning with the day on which the notice is given);

(c) the fact that objections may be made to the proposal, how they may be made and the period within which they may be made (being a period of at least 14 days beginning with the day on which the notice is given).

(6) Where after giving notice under sub-paragraph (4) above and taking into account any objections duly made pursuant to sub-paragraph (5)(c) above an authority decides to make an order under sub-paragraph (1) above in respect of any or all of the land in respect of which the notice was given, the authority must–

(a) publish a notice of its decision in at least one newspaper circulating in an area which includes the land; and

(b) post such a notice on the land.

(7) A notice under sub-paragraph (6) above must specify the date on which the order is to come into force, being a date not earlier than–

(a) the end of the period of 14 days beginning with the day on which the notice is given; and

(b) the date referred to in sub-paragraph (5)(b) above.

(8) A principal litter authority may at any time revoke an order under sub-paragraph (1) above in respect of any land to which the order relates.

(9) A principal litter authority must–

(a) publish a notice of any revocation under sub-paragraph (8) above in at least one newspaper circulating in an area which includes the land in question; and

(b) post such a notice on the land.

(10) Sub-paragraph (1) above does not apply to an English county council for an area for which there is a district council.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

Extent

Sch. 3A para. 2(1)-(10): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[3 Consent and conditions

(1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.

(2) Consent under this paragraph may be given without limitation or may be limited–

(a) by reference to the material to be distributed;
(b) by reference to a particular period, or particular times or dates;
(c) by reference to any part of the designated land;
(d) to a particular distribution.

(3) A principal litter authority need not give consent under this paragraph to any applicant where it considers that the proposed distribution would in all the circumstances be likely to lead to defacement of the designated land.

(4) Consent need not be given to any applicant if within the period of five years ending on the date of his application–

(a) he has been convicted of an offence under paragraph 1 above; or
(b) he has paid a fixed penalty under paragraph 7 below.

(5) Consent may be given under this paragraph subject to such conditions as the authority consider necessary or desirable for–

(a) protecting the designated land from defacement; or
(b) the effective operation and enforcement of this Schedule.

(6) The conditions which may be imposed by a principal litter authority under this paragraph include conditions requiring any person distributing printed matter pursuant to consent given under this paragraph to produce on demand written evidence of the consent to an authorised officer of the authority.

(7) Consent given by a principal litter authority under this paragraph may at any time be revoked (entirely or to any extent) by notice to the person to whom it was given, where–

(a) he has failed to comply with any condition subject to which it was given; or
(b) he is convicted of an offence under paragraph 1 above or pays a fixed penalty under paragraph 7 below.

(8) Any condition imposed under this paragraph in relation to any consent may be varied or revoked by notice given to the person to whom the consent was given.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

England

[3 Consent and conditions

(1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.

(2) Consent under this paragraph may be given without limitation or may be limited–

(a) by reference to the material to be distributed;
(b) by reference to a particular period, or particular times or dates;
(c) by reference to any part of the designated land;
(d) to a particular distribution.

(3) A principal litter authority need not give consent under this paragraph to any applicant where it considers that the proposed distribution would in all the circumstances be likely to lead to defacement of the designated land.

(4) Consent need not be given to any applicant if within the period of five years ending on the date of his application–

(a) he has been convicted of an offence under paragraph 1 above; or
(b) he has paid a fixed penalty under paragraph 7 below.

(5) Consent may be given under this paragraph subject to such conditions as the authority consider necessary or desirable for–

(a) protecting the designated land from defacement; or
(b) the effective operation and enforcement of this Schedule.

(6) The conditions which may be imposed by a principal litter authority under this paragraph include conditions requiring any person distributing printed matter pursuant to consent given under this paragraph to produce on demand written evidence of the consent to an authorised officer of the authority.

(7) Consent given by a principal litter authority under this paragraph may at any time be revoked (entirely or to any extent) by notice to the person to whom it was given, where–

(a) he has failed to comply with any condition subject to which it was given; or
(b) he is convicted of an offence under paragraph 1 above or pays a fixed penalty under paragraph 7 below.

(8) Any condition imposed under this paragraph in relation to any consent may be varied or revoked by notice given to the person to whom the consent was given.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

Extent

Sch. 3A para. 3(1)-(8): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[4 Fees

(1) A principal litter authority may require the payment of a fee before giving consent under paragraph 3 above.

(2) The amount of a fee under this paragraph is to be such as the authority may determine, but may not be more than, when taken together with all other fees charged by the authority under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

England

[4 Fees

(1) A principal litter authority may require the payment of a fee before giving consent under paragraph 3 above.

(2) The amount of a fee under this paragraph is to be such as the authority may determine, but may not be more than, when taken together with all other fees charged by the authority under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

Extent

Sch. 3A para. 4(1)-(2): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[5 Appeals

(1) Any person aggrieved by a decision of a principal litter authority under paragraph 3 above–

(a) to refuse consent,

(b) to impose any limitation or condition subject to which consent is given,

(c) to revoke consent (or to revoke it to any extent),

may appeal against the decision to a magistrates' court.

(2) A magistrates' court may on an appeal under this paragraph–

(a) uphold any refusal of consent or require the authority to grant consent (without limitation or condition or subject to any limitation or condition);

(b) require the authority to revoke or vary any condition;

(c) uphold or quash revocation of consent (or uphold or quash revocation to any extent).

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

England

[5 Appeals

(1) Any person aggrieved by a decision of a principal litter authority under paragraph 3 above–

(a) to refuse consent,

(b) to impose any limitation or condition subject to which consent is given,

(c) to revoke consent (or to revoke it to any extent),

may appeal against the decision to a magistrates' court.

(2) A magistrates' court may on an appeal under this paragraph–

(a) uphold any refusal of consent or require the authority to grant consent (without limitation or condition or subject to any limitation or condition);

(b) require the authority to revoke or vary any condition;

(c) uphold or quash revocation of consent (or uphold or quash revocation to any extent).

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

Extent

Sch. 3A para. 5(1)-(2)(c): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[6 Seizure of material

(1) Where it appears to an authorised officer of a principal litter authority that a person distributing any printed matter is committing an offence under paragraph 1 above, he may seize all or any of it.

(2) Any person claiming to own any printed matter seized under this paragraph may apply to a magistrates' court for an order that the printed matter be released to him.

(3) On an application under sub-paragraph (2) above, if the magistrates' court considers that the applicant does own the printed matter, the court shall order the principal litter authority to release it to him, except to the extent that the court considers that the authority needs to retain it for the purposes of proceedings relating to an offence under paragraph 1 above.

(4) Any printed matter seized under this paragraph (and not released under sub-paragraph (3) above) must be returned to the person from whom it is seized–

(a) at the conclusion of proceedings for the offence (unless the court orders otherwise);

(b) at the end of the period in which proceedings for the offence may be instituted, if no such proceedings have been instituted in that period (or have been instituted but discontinued).

(5) Where it is not possible to return any printed matter under sub-paragraph (4) above because the name and address of the person from whom it was seized are not known, a principal litter authority may dispose of or destroy it.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

England

[6 Seizure of material

(1) Where it appears to an authorised officer of a principal litter authority that a person distributing any printed matter is committing an offence under paragraph 1 above, he may seize all or any of it.

(2) Any person claiming to own any printed matter seized under this paragraph may apply to a magistrates' court for an order that the printed matter be released to him.

(3) On an application under sub-paragraph (2) above, if the magistrates' court considers that the applicant does own the printed matter, the court shall order the principal litter authority to release it to him, except to the extent that the court considers that the authority needs to retain it for the purposes of proceedings relating to an offence under paragraph 1 above.

(4) Any printed matter seized under this paragraph (and not released under sub-paragraph (3) above) must be returned to the person from whom it is seized–

(a) at the conclusion of proceedings for the offence (unless the court orders otherwise);

(b) at the end of the period in which proceedings for the offence may be instituted, if no such proceedings have been instituted in that period (or have been instituted but discontinued).

(5) Where it is not possible to return any printed matter under sub-paragraph (4) above because the name and address of the person from whom it was seized are not known, a principal litter authority may dispose of or destroy it.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

Extent

Sch. 3A para. 6(1)-(5): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[7 Fixed penalty notices

(1) This paragraph applies where on any occasion it appears to an authorised officer of a principal litter authority that a person has committed an offence under paragraph 1 above on any land designated by the authority under this Schedule.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the principal litter authority.

(3) Subsections (2) to (5) of section 88 above apply in relation to notices given under this paragraph as they apply to notices under that section.

(4) The amount of the fixed penalty payable to a principal litter authority under this paragraph–

(a) is the amount specified by the authority in relation to its area; or

[(b) if no amount is so specified, is—

(i) in England, £100, or

(ii) in Wales, £75.

] [2]

(5) The principal litter authority to which a fixed penalty is payable under this paragraph may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(6) In any proceedings a certificate which–

(a) purports to be signed on behalf of the chief finance officer of a principal litter authority, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(7) If an authorised officer of a principal litter authority proposes to give a person a notice under this paragraph, the officer may require the person to give him his name and address.

(8) A person commits an offence if–

(a) he fails to give his name and address when required to do so under sub-paragraph (7) above; or

(b) he gives a false or inaccurate name or address in response to a requirement under that sub-paragraph.

(9) A person guilty of an offence under sub-paragraph (8) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this paragraph, "chief finance officer", in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

[2] Substituted by Environmental Offences (Fixed Penalties) (England) Regulations 2017/1050 reg.6(2) (April 1, 2018)

England

[7 Fixed penalty notices

(1) This paragraph applies where on any occasion it appears to an authorised officer of a principal litter authority that a person has committed an offence under paragraph 1 above on any land designated by the authority under this Schedule.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the principal litter authority.

(3) Subsections (2) to (5) of section 88 above apply in relation to notices given under this paragraph as they apply to notices under that section.

(4) The amount of the fixed penalty payable to a principal litter authority under this paragraph–

(a) is the amount specified by the authority in relation to its area; or

[(b) if no amount is so specified, is—

(i) in England, £100, or

(ii) in Wales, £75.

] [2]

(5) The principal litter authority to which a fixed penalty is payable under this paragraph may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(6) In any proceedings a certificate which–

(a) purports to be signed on behalf of the chief finance officer of a principal litter authority, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(7) If an authorised officer of a principal litter authority proposes to give a person a notice under this paragraph, the officer may require the person to give him his name and address.

(8) A person commits an offence if–

(a) he fails to give his name and address when required to do so under sub-paragraph (7) above; or

(b) he gives a false or inaccurate name or address in response to a requirement under that sub-paragraph.

(9) A person guilty of an offence under sub-paragraph (8) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this paragraph, "chief finance officer", in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

[2] Substituted by Environmental Offences (Fixed Penalties) (England) Regulations 2017/1050 reg.6(2) (April 1, 2018)

Extent

Sch. 3A para. 7(1)-(10): England, Wales, Scotland

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

Wales

[8 Supplementary

In this Schedule "authorised officer", in relation to a principal litter authority, means–

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under paragraph 7 above;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (March 15, 2007 as SI 2006/2797)

England

[8 Supplementary

In this Schedule "authorised officer", in relation to a principal litter authority, means–

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under paragraph 7 above;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.

] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 3 s.23(2) (April 6, 2006 as SI 2006/795)

Extent

Sch. 3A para. 8(a)-(c): England, Wales, Scotland

SCHEDULE 4

ABANDONED SHOPPING AND LUGGAGE TROLLEYS

Section 99

Application

Law In Force

1.—

(1) Subject to sub-paragraph (2) below, this Schedule applies where any shopping or luggage trolley is found by an authorised officer of the local authority on any land in the open air and appears to him to be abandoned.

(2) This Schedule does not apply in relation to a shopping or luggage trolley found on the following descriptions of land, that is to say—

(a) land in which the owner of the trolley has a legal estate or, in Scotland, of which the owner of the trolley is the owner or occupier;
(b) where an off-street parking place affords facilities to the customers of shops for leaving there shopping trolleys used by them, land on which those facilities are afforded;
(c) where any other place designated by the local authority for the purposes of this Schedule affords like facilities, land on which those facilities are afforded; and
(d) as respects luggage trolleys, land which is used for the purposes of their undertaking by persons authorised by an enactment to carry on any railway, light railway, tramway or road transport undertaking **[**, by an operator of railway services (within the meaning of Part I of the Railways Act 1993) provided in connection with a transferred network**]**[1] or by a relevant airport operator (within the meaning of Part V of the Airports Act 1986).

[(3) In sub-paragraph (2)(d) above, "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.**]**[2]

Notes

[1] Words added by Railways Act 1993 (Consequential Modifications) Order 1999/1443 art.3 (June 16, 1999)

[2] Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(6) para.40(10) (June 30, 2014)

Commencement

Sch. 4 para. 1: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 4 para. 1(1)-(2)(d): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Sch. 4 para. 1(3): England, Wales, Scotland

Power to seize and remove trolleys

Law In Force

2.—

(1) Where this Schedule applies in relation to a shopping or luggage trolley, the local authority may, subject to sub-paragraph (2) below,—
(a) seize the trolley; and
(b) remove it to such place under its control as the authority thinks fit.

(2) When a shopping or luggage trolley is found on any land appearing to the authorised officer to be occupied by any person, the trolley shall not be removed without the consent of that person unless—
(a) the local authority has served on that person a notice stating that the authority proposes to remove the trolley; and

(b) no notice objecting to its removal is served by that person on the local authority within the period of fourteen days beginning with the day on which the local authority served the notice of the proposed removal on him.

Commencement

Sch. 4 para. 2: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 4 para. 2(1)-(2)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Retention, return and disposal of trolleys

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force

Scotland

[3.—

(1) Subject to the following sub-paragraphs, the local authority, as respects any shopping or luggage trolley it has seized and removed,—

(a) shall keep the trolley for a period of six weeks; and

(b) may sell or otherwise dispose of the trolley at any time after the end of that period.

(2) The local authority shall, as respects any trolley it has seized or removed, as soon as reasonably practicable (but not later than fourteen days) after its removal, serve on the person (if any) who appears to the authority to be the owner of the trolley a notice stating—

(a) that the authority has removed the trolley and is keeping it;

(b) the place where it is being kept; and

(c) that, if it is not claimed, the authority may dispose of it.

(3) Subject to sub-paragraph (4) below, if, within the period mentioned in sub-paragraph (1)(a) above, any person claims to be the owner of a shopping or luggage trolley being kept by the authority under that sub-paragraph, the local authority shall, if it appears that the claimant is the owner, deliver the trolley to him.

(4) A person claiming to be the owner of a shopping or luggage trolley shall not be entitled to have the trolley delivered to him unless he pays the local authority, on demand, such charge as the authority requires.

(5) No shopping or luggage trolley shall be disposed of by the local authority unless (where it has not been claimed) the authority has made reasonable enquiries to ascertain who owns it.
] [1]

Notes

[1] Substituted by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.99(2) (October 27, 2006 as SI 2006/2797)

Wales

3.—

(1) Subject to the following sub-paragraphs, the local authority, as respects any shopping or luggage trolley it has seized and removed,—

(a) shall keep the trolley for a period of six weeks; and
(b) may sell or otherwise dispose of the trolley at any time after the end of that period.

(2) The local authority shall, as respects any trolley it has seized and removed, as soon as reasonably practicable (but not later than fourteen days) after its removal, serve on the person (if any) who appears to the authority to be the owner of the trolley a notice stating—

(a) that the authority has removed the trolley and is keeping it;
(b) the place where it is being kept; and
(c) that, if it is not claimed, the authority may dispose of it.

(3) Subject to sub-paragraph (4) below, if, within the period mentioned in sub-paragraph (1)(a) above, any person claims to be the owner of a shopping or luggage trolley being kept by the authority under that sub-paragraph, the local authority shall, if it appears that the claimant is the owner, deliver the trolley to him.

(4) A person claiming to be the owner of a shopping or luggage trolley shall not be entitled to have the trolley delivered to him unless he pays the local authority, on demand, such charge as the authority requires.

(5) No shopping or luggage trolley shall be disposed of by the local authority unless (where it has not been claimed) the authority has made reasonable enquiries to ascertain who owns it.

England

3.—

(1) Subject to the following sub-paragraphs, the local authority, as respects any shopping or luggage trolley it has seized and removed,—

(a) shall keep the trolley for a period of six weeks; and
(b) may sell or otherwise dispose of the trolley at any time after the end of that period.

(2) The local authority shall, as respects any trolley it has seized and removed, as soon as reasonably practicable (but not later than fourteen days) after its removal, serve on the person (if any) who appears to the authority to be the owner of the trolley a notice stating—

(a) that the authority has removed the trolley and is keeping it;
(b) the place where it is being kept; and
(c) that, if it is not claimed, the authority may dispose of it.

(3) Subject to sub-paragraph (4) below, if, within the period mentioned in sub-paragraph (1)(a) above, any person claims to be the owner of a shopping or luggage trolley being kept by the authority under that sub-paragraph, the local authority shall, if it appears that the claimant is the owner, deliver the trolley to him.

(4) A person claiming to be the owner of a shopping or luggage trolley shall not be entitled to have the trolley delivered to him unless he pays the local authority, on demand, such charge as the authority requires.

(5) No shopping or luggage trolley shall be disposed of by the local authority unless (where it has not been claimed) the authority has made reasonable enquiries to ascertain who owns it.

Commencement

Sch. 4 para. 3: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 4 para. 3(1)-(5): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England | Wales

Partially In Force

Scotland

[NOTE: not yet in force otherwise.]

England

[3A

(1) This paragraph applies where the local authority is entitled to sell or otherwise dispose of a shopping or luggage trolley in accordance with paragraph 3(1)(b).

(2) If it appears to the authority that a particular person is the owner of the trolley, the authority may charge him a sum in respect of the removal, storage and disposal of the trolley.

(3) The charge is payable to the authority on demand.

(4) The sum payable as a charge under this paragraph is recoverable by the authority as a debt due to it.

(5) In proceedings against a person under sub-paragraph (4) for enforcement of a charge, it is a defence for the person to prove that he was not the owner of the trolley to which the charge relates at the time it was removed.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.99(3) (April 6, 2006 as SI 2006/795)

Wales

[3A

(1) This paragraph applies where the local authority is entitled to sell or otherwise dispose of a shopping or luggage trolley in accordance with paragraph 3(1)(b).

(2) If it appears to the authority that a particular person is the owner of the trolley, the authority may charge him a sum in respect of the removal, storage and disposal of the trolley.

(3) The charge is payable to the authority on demand.

(4) The sum payable as a charge under this paragraph is recoverable by the authority as a debt due to it.

(5) In proceedings against a person under sub-paragraph (4) for enforcement of a charge, it is a defence for the person to prove that he was not the owner of the trolley to which the charge relates at the time it was removed.
] [1]

Notes

[1] Added by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.99(3) (October 27, 2006 as SI 2006/2797)

Extent

Sch. 4 para. 3A(1)-(5): England, Wales, Scotland

Charges

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | Wales | England

Law In Force

Scotland

[4.—

(1) The local authority, in fixing the charge to be paid under paragraph 3 above by the claimant of a shopping or luggage trolley, shall secure that the charges so payable by claimants shall be such as are sufficient, taking one financial year with another, to cover the cost of removing, storing and disposing of such trolleys under this Schedule.

(2) The local authority may agree with persons who own shopping or luggage trolleys and make them available for use in its area a scheme for the collection by them of trolleys they make available for use; and where such an agreement is in force with any person, no charge may be demanded under paragraph 3 above by the local authority in respect of any trolley within the scheme in relation to which the provisions of the scheme are complied with.
] [1]

Notes

[1] Amended by Clean Neighbourhoods and Environment Act 2005 c. 16 Pt 9 s.99(4) (October 27, 2006 as SI 2006/2797)

Wales

4.—

(1) The local authority, in fixing the charges to be paid under this Schedule, shall secure that the charges so payable are such as are sufficient, taking one financial year with another, to cover the cost of removing, storing and disposing of shopping or luggage trolleys under this Schedule.

(2) The local authority may agree with persons who own shopping or luggage trolleys and make them available for use in its area a scheme for the collection by them of trolleys they make available for use; and where such an agreement is in force with any person, no charge may be demanded under paragraph 3 or 3A above by the local authority in respect of any trolley within the scheme in relation to which the provisions of the scheme are complied with.

England

4.—

(1) The local authority, in fixing the charges to be paid under this Schedule, shall secure that the charges so payable are such as are sufficient, taking one financial year with another, to cover the cost of removing, storing and disposing of shopping or luggage trolleys under this Schedule.

(2) The local authority may agree with persons who own shopping or luggage trolleys and make them available for use in its area a scheme for the collection by them of trolleys they make available for use; and where such an agreement is in force with any person, no charge may be demanded under paragraph 3 or 3A above by the local authority in respect of any trolley within the scheme in relation to which the provisions of the scheme are complied with.

Commencement

Sch. 4 para. 4: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 4 para. 4(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Definitions

Law In Force

5.

In this Schedule—

"luggage trolley" means a trolley provided by a person carrying on an undertaking mentioned in paragraph 1(2)(d) above to travellers for use by them for carrying their luggage to, from or within the premises used for the purposes of his undertaking, not being a trolley which is power-assisted; and

"shopping trolley", means a trolley provided by the owner of a shop to customers for use by them for carrying goods purchased at the shop, not being a trolley which is power-assisted.

Commencement

Sch. 4 para. 5: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 4 para. 5 definition of "luggage trolley"- definition of "shopping trolley": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

SCHEDULE 5

FURTHER AMENDMENTS OF THE RADIOACTIVE SUBSTANCES ACT 1960

Section 105

PART I

MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS

Amendments relating to appointment of chief inspector

Repealed

1.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

2.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

3. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Amendments consequential on the introduction of fees and charges

Repealed

4.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

5. […][1]

Westlaw UK

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Documents to be sent to local authorities

Repealed

6.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Mobile radioactive apparatus

Repealed

7.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Site and disposal records

Repealed

8. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Hearings in connection with certain authorisations

Repealed

9.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Appeals against certain other decisions of the chief inspector

Repealed

10. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Period within which applications under Act to be determined

Repealed

11.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Directions to chief inspector

Repealed

12. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Inspectors: powers and protection

Repealed

13.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Offences under 1960 Act

Repealed

14.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Public access to certain information

Repealed

15. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Expenses and receipts

Repealed

16. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Meaning of "radioactive material" for purposes of 1960 Act

Repealed

17. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

PART II

AMENDMENTS RELATING TO SCOTLAND AND NORTHERN IRELAND

Scotland

Repealed

18. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Repealed

19.— […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Northern Ireland

Repealed

20. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

SCHEDULE 6

Section 128

Notes

[1] Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 Sch.11(1) para.126(3) (October 1, 2006)

Preliminary

Repealed

1. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Constitution and membership

Repealed

2. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

3.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

4.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

5. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

6. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Remuneration and allowances for members of council

Repealed

7.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Staff

Repealed

8.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

9. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

10. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

11. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Proceedings

Repealed

12.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Delegation of powers

Repealed

13.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Committees

Repealed

14.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Documents

Repealed

15.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

16.— […][1]

Notes

[1] Repealed by Natural Heritage (Scotland) Act 1991 c. 28 Sch.11 para.1 (April 1, 1992 as SI 1991/2633)

Public Records

Repealed

17. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Land

Repealed

18.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Reports, accounts etc.

Repealed

19. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

20.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Repealed

21.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Superannuation Act 1965 (c.74)

Repealed

22. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Parliamentary Commissioner Act 1967 (c.13)

Repealed

23. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

House of Commons Disqualification Act 1975 (c.24)

Repealed

24. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Inheritance Tax Act 1984 (c.51)

Repealed

25. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

SCHEDULE 7

THE JOINT NATURE CONSERVATION COMMITTEE

Section 128

Preliminary

Repealed

1. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Membership

Repealed

2.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

3. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

4.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Westlaw UK

Remuneration and allowances for members

Repealed

5.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

6. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Staff etc. and expenses

Repealed

7.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Proceedings

Repealed

8.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Delegation of functions

Repealed

9.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Annual reports

Repealed

10.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

SCHEDULE 8

AMENDMENT OF ENACTMENTS RELATING TO COUNTRYSIDE MATTERS

Section 130

National Parks and Access to the Countryside Act 1949 (c. 97)

Repealed

1.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

The Countryside Act 1968 (c.41)

Repealed

2.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Local Government Act 1972 (c.70)

Repealed

3. […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1997 as SI 1996/2560)

Local Government Act 1974 (c.7)

Repealed

4. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Highways Act 1980 (c. 66)

Repealed

5.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Wildlife and Countryside Act 1981 (c. 69)

Repealed

6.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

The Road Traffic Regulation Act 1984 (c.27)

Repealed

7. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

The Water Act 1989 (c. 15)

Repealed

8. […][1]

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

SCHEDULE 9

AMENDMENT OF ENACTMENTS CONFERRING NATURE CONSERVANCY FUNCTIONS

Section 132

National Parks and Access to the Countryside Act 1949 (c. 97)

Repealed

1.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Deer (Scotland) Act 1959 (c. 40)

Repealed

2. […][1]

Notes

[1] Repealed by Natural Heritage (Scotland) Act 1991 c. 28 Sch.11 para.1 (April 1, 1992 as SI 1991/2633)

Deer Act 1963 (c. 36)

Repealed

3. […][1]

Notes

[1] Repealed by Deer Act 1991 c. 54 Sch.4 para.1 (October 25, 1991: represents law in force as at date shown)

Countryside Act 1968 (c. 41)

Repealed

4.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Conservation of Seals Act 1970 (c. 30)

Repealed

5. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Badgers Act 1973 (c. 57)

Repealed

6.— […][1]

Notes

[1] Repealed by Protection of Badgers Act 1992 c. 51 Sch.1 para.1 (October 16, 1992)

Import of Live Fish (Scotland) Act 1978 (c. 35)

Repealed

7. […][1]

Notes

[1] Repealed by Natural Heritage (Scotland) Act 1991 c. 28 Sch.11 para.1 (April 1, 1992 as SI 1991/2633)

Import of Live Fish (England and Wales) Act 1980 (c. 27)

Repealed

8. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Highways Act 1980 (c. 66)

Repealed

9. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Animal Health Act 1981 (c. 22)

Repealed

10.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Wildlife and Countryside Act 1981 (c. 69)

Repealed

11.— […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Roads (Scotland) Act 1984 (c. 54)

Repealed

12. […][1]

Notes

[1] Repealed by Natural Heritage (Scotland) Act 1991 c. 28 Sch.11 para.1 (April 1, 1992 as SI 1991/2633)

Agriculture Act 1986 (c. 49)

Repealed

13. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Channel Tunnel Act 1987 (c. 53)

Repealed

14. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Norfolk and Suffolk Broads Act 1988 (c. 4)

Repealed

15. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Electricity Act 1989 (c. 29)

Repealed

16. […][1]

Notes

[1] Repealed by Natural Resources Body for Wales (Functions) Order 2013/755 art.8(2)(b) (April 1, 2013: repeal has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

Water Act 1989 (c. 15)

Repealed

17.— […][1]

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

SCHEDULE 10

TRANSFER SCHEMES AND STAFF OF EXISTING COUNCILS

Sections 135, 136 and 137

PART I

TRANSFER SCHEMES: NATURE CONSERVANCY COUNCIL

Making and approval of schemes

Repealed

1.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Modification of schemes

Repealed

2.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Provision of information to Secretary of State

Repealed

3. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Contents of schemes

Repealed

4. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

5. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

PART II

TRANSFER SCHEMES: THE COUNTRYSIDE COMMISSION

Making and approval of schemes

Repealed

6.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Modification of schemes

Repealed

7.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Provision of information to Secretary of State

Repealed

8. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Contents of schemes

Repealed

9.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

PART III

EMPLOYMENT OF STAFF OF EXISTING BODIES

Proposals for staff of Nature Conservancy Council

Repealed

10. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

11.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Proposals for certain staff of the Countryside Commission

Repealed

12. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

13.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Offers of employment

Repealed

14.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Continuity of employment, redundancy etc.

Repealed

15. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Repealed

16. […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

Disputes

Repealed

17.— […][1]

Notes

[1] Repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)

SCHEDULE 11

TRANSITIONAL PROVISIONS AND SAVINGS FOR PART VII

Section 139

PART I

COUNTRYSIDE FUNCTIONS

Preliminary

Law In Force

1.

In this Part of this Schedule—

"the appointed day" means the day appointed under section 130(4) of this Act;

"the Commission" means the Countryside Commission;

"the Council" means the Countryside Council for Wales;

"relevant", in relation to anything done by or in relation to the Commission before the appointed day, means anything which, if it were to be done on or after the appointed day, would be done by or in relation to the Council or, as the case may be, by or in relation to both the Commission (so far as concerning England) and the Council (so far as concerning Wales).

Commencement

Sch. 11(I) para. 1: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(I) para. 1 definition of "the appointed day"- definition of "relevant": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Continuity of exercise of functions

Law In Force

2.—

(1) Any relevant thing done by or in relation to the Commission before the appointed day shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in

relation to the Council or, as the case may be, by or in relation to both the Council and the Commission.

(2) Any relevant thing which, immediately before the appointed day, is in the process of being done by or in relation to the Commission may be continued by or in relation to the Council or, as the case may be, by or in relation to both the Council and the Commission.

Commencement

Sch. 11(I) para. 2: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(I) para. 2(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Construction of references to the Countryside Commission

Law In Force

3.—

(1) This paragraph applies to any provision of any agreement, or of any instrument or other document, subsisting immediately before the appointed day which refers (in whatever terms) to the Commission and does so (or is to be construed as doing so) in relation to, or to things being done in or in connection with, Wales.

(2) Any provision to which this paragraph applies shall, subject to sub-paragraphs (3) and (4) below, have effect on and after the appointed day with the substitution for, or the inclusion in, any reference to the Commission of a reference to the Council, according as the reference concerns Wales only or concerns both England and Wales.

(3) Any provision to which this paragraph applies which refers in general terms to members of or to persons employed by or agents of the Commission shall have effect on and after the appointed day with the substitution for, or the inclusion in, any such reference of a reference to members of or persons employed by or agents of the Council, according as the reference concerns Wales only or concerns both England and Wales.

(4) Any provision to which this paragraph applies which refers to a member or employee of the Commission shall have effect on and after the appointed day with the substitution for, or the inclusion in, any such reference of—

(a) a reference to such person as the Council may appoint, or

(b) in default of appointment, to the member or employee of the Council who corresponds as nearly as may be to the member or employee in question,

according as the reference concerns Wales only or concerns both England and Wales.

Commencement

Sch. 11(I) para. 3: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(I) para. 3(1)-(4)(b): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

4.—

(1) This paragraph applies to any provision of a local Act passed, or subordinate legislation made, before the appointed day which refers (in whatever terms) to the Commission and relates to, or to things being done in or in connection with, Wales.

(2) The Secretary of State may by order make such consequential modifications of any provision to which this paragraph applies as appear to him to be necessary or expedient.

(3) Subject to any exercise of the power conferred by sub-paragraph (2) above, any provision to which this paragraph applies shall have effect on and after the appointed day with the substitution for, or inclusion in, any reference to the Commission of a reference to the Council, according as the reference concerns Wales only or concerns both England and Wales.

Commencement

Sch. 11(I) para. 4: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(I) para. 4(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Existing areas of outstanding natural beauty and long distance routes

Law In Force

5.—

(1) This paragraph applies to—

(a) any area of land which immediately before the appointed day is an area of outstanding natural beauty designated under section 87 of the 1949 Act of which part is in England and part is in Wales (referred to as “the two parts” of such an area); and

(b) any long distance route under Part IV of that Act of which some parts are in England and other parts in Wales.

(2) On and after the appointed day the two parts of an area to which this paragraph applies shall be treated as if each were a distinct area of outstanding natural beauty; and accordingly, so far as may be necessary for the purpose of applying paragraphs 2 and 3 above, anything done by or in relation to the Commission in relation to both parts of that area shall be treated as having been done in relation to the part in Wales by or in relation to the Council.

(3) On and after the appointed day any route to which this paragraph applies shall not cease, by virtue of this Part of this Act to be a single route for the purposes of Part IV of the 1949 Act; but any function which before that day is exercisable by or in relation to the Commission shall, on and after that day be exercisable by or in relation to the Commission (so far as concerns parts of the route in England) and by or in relation to the Council (so far as concerns parts of the route in Wales).

(4) On or after the appointed day the Commission and the Council shall each exercise any function of theirs in relation to an area or route to which this paragraph applies only after consultation with the other; and the Commission and the Council may make arrangements for discharging any of their functions in relation to such an area or route jointly.

Commencement

Sch. 11(I) para. 5: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(I) para. 5(1)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART II

NATURE CONSERVATION FUNCTIONS

Preliminary

Law In Force

6.

In this Part of this Schedule—

"appointed day" means the date appointed under section 131(3) of this Act;

"appropriate new council" shall be construed in accordance with paragraph 7 below; and

"new council" means a council established by section 128(1) of this Act.

Commencement

Sch. 11(II) para. 6: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 6 definition of "appointed day"- definition of "new council": England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

7.—

(1) In this Part of this Schedule a reference to "the appropriate new council" is, in relation to or to things done in connection with property, rights or liabilities of the Nature Conservancy Council which are transferred by section 135(2) of this Act to a new council, a reference to that new council.

(2) Subject to sub-paragraph (1) above, a reference in this Part of this Schedule to "the appropriate new council" is, in relation to anything else done before the appointed day by or in relation to the Nature Conservancy Council in the exercise of or in connection with any function of theirs (other than a function corresponding to a special function of the new councils)—

(a) a reference to the new council by whom the nature conservation function corresponding to that function is exercisable on and after that date; or

(b) where the thing done relates to a matter affecting the area of more than one new council, a reference to each new council by whom the nature conservation function corresponding to that function is exercisable on and after that date;

and in relation to anything done in the exercise of or in connection with any function of the Nature Conservancy Council corresponding to a special function of the new councils a reference to "the appropriate new council" is a reference to the joint committee or, where directions under section 133(5) of this Act have been given, the new council by whom the corresponding special function is dischargeable (on behalf of the new councils) on and after that day.

(3) Any question arising under this paragraph as to which new council is the appropriate new council in relation to any particular function of the Nature Conservancy Council may be determined by a direction given by the Secretary of State.

Commencement

Sch. 11(II) para. 7: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 7(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Continuity of exercise of functions

Law In Force

8.—

(1) Anything done (or deemed by any enactment to have been done) by or in relation to the Nature Conservancy Council before the appointed day shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the appropriate new council.

(2) Anything which immediately before the appointed day is in the process of being done by or in relation to the Nature Conservancy Council may be continued by or in relation to the appropriate new council as if it had been done by or in relation to that council.

Commencement

Sch. 11(II) para. 8: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 8(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Construction of references to the Nature Conservancy Council

Law In Force

9.—

(1) This paragraph applies to any agreement, any instrument and any other document subsisting immediately before the appointed day which refers (in whatever terms) to the Nature Conservancy Council, other than a scheme provided by that Council under paragraph 12 of Schedule 3 to the Nature Conservancy Council Act 1973.

(2) Any agreement, instrument or other document to which this paragraph applies shall have effect on and after the appointed day with the substitution—

(a) for any reference to the Nature Conservancy Council of a reference to the appropriate new council;

(b) for any reference in general terms to members of or to persons employed by or agents of the Nature Conservancy Council of a reference to members of or persons employed by or agents of the appropriate new council; and

(c) for any reference to a member or officer of the Nature Conservancy Council of a reference to such person as the appropriate new council may appoint or, in default of appointment, to the member or employee of that council who corresponds as nearly as may be to the member or officer in question.

Commencement

Sch. 11(II) para. 9: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 9(1)-(2)(c): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

10.—

(1) This paragraph applies to any provision of a local Act passed, or subordinate legislation made, before the appointed day which refers (in whatever terms) to the Nature Conservancy Council.

(2) The Secretary of State may by order make such consequential modifications of any provision to which this paragraph applies as appear to him to be necessary or expedient.

(3) Subject to any exercise of the power conferred by sub-paragraph (2) above, any provision to which this paragraph applies shall have effect on and after the appointed day with the substitution for each reference to the Nature Conservancy Council of a reference to such one or more of the new councils as may be appropriate, according as the provision relates to, or to things being done in or in connection with, England, Scotland or Wales.

Commencement

Sch. 11(II) para. 10: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 10(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Pensions for Nature Conservancy Council staff

Law In Force

11.—

(1) The repeal by this Act of paragraph 12 of Schedule 3 to the Nature Conservancy Council Act 1973 shall not affect the operation on and after the appointed day of any scheme provided by the Nature Conservancy Council for the payment to or in respect of its officers of pensions, allowances or gratuities.

(2) Any such scheme shall have effect on and after the appointed day with the substitution for any reference to the Nature Conservancy Council of a reference to the Secretary of State.

Commencement

Sch. 11(II) para. 11: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 11(1)-(2): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Existing nature reserves and areas of special scientific interest

Law In Force

12.—

(1) This paragraph applies to any land which, immediately before the appointed day is—

(a) a nature reserve (within the meaning of Part III of the 1949 Act) which is managed by, or under an agreement entered into with, the Nature Conservancy Council or which is the subject of a declaration under section 35 of the 1981 Act; or

(b) an area of special scientific interest which has been notified by the Nature Conservancy Council under section 28(1) of the 1981 Act or is treated by section 28(13) of that Act as having been notified under section 28(1)(a) of that Act or is an area to which an order under section 29(1) of that Act relates;

and of which part is in England and part is in Wales or, as the case may be, part is in England and part is in Scotland (referred to as "the two parts" of such a reserve or area).

(2) On and after the appointed day, the two parts of any reserve or area to which this paragraph applies shall be treated as if each were a distinct nature reserve or area of special scientific interest; and accordingly, so far as may be necessary for the purpose of applying paragraphs 8 and 9 above, anything done by or in relation to the Nature Conservancy Council affecting both parts of that reserve or area shall be treated as having been done by or in relation to each of the two parts separately.

(3) On and after the appointed day the new council exercising functions as respects either part of a reserve or area to which this paragraph applies shall exercise those functions only after consultation with the new council exercising functions as respects the other part; and those councils may make arrangements for discharging any of those functions jointly.

Commencement

Sch. 11(II) para. 12: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(II) para. 12(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART III

SUPPLEMENTARY

Law In Force

13.
Paragraphs 3, 4, 5, 8, 9, 10 and 12 above are without prejudice to any provision made by or under this Part of this Act in relation to any particular functions, property, rights or liabilities; and, in particular, nothing in this Schedule applies in relation to contracts of employment made by the Countryside Commission or the Nature Conservancy Council.

Commencement

Sch. 11(III) para. 13: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(III) para. 13: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

14.
The Secretary of State may, in relation to any particular functions of the Countryside Commission or the Nature Conservancy Council, by order exclude, or modify or supplement any provision of this Schedule or make such other transitional provision as he may think necessary or expedient.

Commencement

Sch. 11(III) para. 14: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(III) para. 14: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

15.
In this Schedule “the 1949 Act” means the National Parks and Access to the Countryside Act 1949 and “the 1981 Act” means the Wildlife and Countryside Act 1981.

Commencement

Sch. 11(III) para. 15: November 5, 1990 (SI 1990/2226 art. 2)

Extent

Sch. 11(III) para. 15: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

SCHEDULE 12

INJURIOUS OR HAZARDOUS SUBSTANCES: ADVISORY COMMITTEE

Sections 140 and 142

Repealed

1. […][1]

Notes

[1] Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

Repealed

2. […][1]

Notes

[1] Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

Repealed

3. […][1]

Notes

[1] Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

Repealed

4. […][1]

Notes

[1] Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

Repealed

5. […][1]

Notes

[1] Repealed by Advisory Committee on Hazardous Substances (Abolition) Order 2012/1923 Sch.1 para.1 (July 22, 2012 except for the purpose specified in SI 2012/1923 art.1(3); July 23, 2012 otherwise)

SCHEDULE 13

AMENDMENTS OF HAZARDOUS SUBSTANCES LEGISLATION

Section 144

PART I

ENGLAND AND WALES

Law In Force

1.
The Planning (Hazardous Substances) Act 1990 shall be amended as provided in this Part of this Schedule.

Commencement

Sch. 13(I) para. 1: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 1: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Law In Force

England and Wales

2.—

(1) **[…]**[1]

(2) In section 7(3), for the words from "means" to "with" in the third place it occurs there shall be substituted the words "means consultations with the Health and Safety Executive and with".

(3) In section 10(2), for the words from the beginning to "3" there shall be substituted the words "A hazardous substances authority".

(4) In section 28(1)—

(a) in paragraph (a), for the words following the word "consent" there shall be substituted the words

"made to that authority;

(aa) to applications under section 17(1) made to that authority;"

; and

(b) after paragraph (d), there shall be inserted the following words—

"; and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with."

(5) In section 29, in subsection (3) and (4), for the words "appropriate body" there shall be substituted the words "Health and Safety Executive".

(6) In section 38(5) for the words "1 to 3" there shall be substituted "1, 3".

(7) In section 39(1), in the definition of "hazardous substances authority", for the word "to", in the second place it occurs, there shall be inserted the word "and".

Notes

[1] Repealed by Statute Law (Repeals) Act 2004 c. 14 Sch.1(13) para.1 (July 22, 2004)

Scotland

[2.—

(2) [...]

(3) In section 10(2), for the words from the beginning to "3" there shall be substituted the words "A hazardous substances authority".

(4) In section 28(1)—

(a) in paragraph (a), for the words following the word "consent" there shall be substituted the words

"made to that authority;

(aa) to applications under section 17(1) made to that authority;"

; and

(b) after paragraph (d), there shall be inserted the following words—

"; and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with."

(5) In section 29, in subsection (3) and (4), for the words "appropriate body" there shall be substituted the words "Health and Safety Executive".

(6) In section 38(5) for the words "1 to 3" there shall be substituted "1, 3".

(7) In section 39(1), in the definition of "hazardous substances authority", for the word "to", in the second place it occurs, there shall be inserted the word "and".

] [1]

Notes

[1] Sch. 13 para.2(2) purportedly repealed for Scotland, but paragraph appears to have application for England and Wales only by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.13 (April 1, 2014)

Commencement

Sch. 13(I) para. 2: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 2(1)-(7): England, Wales

Law In Force

3.

In section 7(1)(a) (applications for consent), after the word "applications" there shall be inserted the words "under this Act".

Commencement

Sch. 13(I) para. 3: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 3: England, Wales

Law In Force

4.

In section 11 (deemed hazardous substances consent in transitional cases)—

(a) in subsection (2) for the words "immediately before the relevant date" there shall be substituted the words "while it was so present"; and

(b) in subsection (7), inparagraph (a), at the beginning there shall be inserted the words "to the condition that" and, for paragraphs (b) and (c), there shall be substituted the words

", and

(b) to such other conditions (if any) as are prescribed for the purposes of this section and are applicable in the case of that consent."

Commencement

Sch. 13(I) para. 4: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 4(a)-(b): England, Wales

Law In Force

5.

In section 12 (deemed consent: government authorisation), at the end there shall be added the following subsection—

"(6) A government department or the Secretary of State shall, as respects any hazardous substances consent deemed to be granted by virtue of directions under this section, send to the hazardous substances authority concerned any such information as appears to be required by them for the purposes of a register under section 28."

Commencement

Sch. 13(I) para. 5: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 5: England, Wales

Repealed

6. […][1]

Notes

[1] Repealed by Statute Law (Repeals) Act 2004 c. 14 Sch.1(13) para.1 (July 22, 2004)

Law In Force

7.
In section 22 (validity of decisions as to applications), in subsection (4), for the words "1971 Act" there shall be substituted the words "principal Act".

Commencement

Sch. 13(I) para. 7: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 7: England, Wales

Law In Force

8.
In section 25(1)(c) (provisions of principal Act capable of application to hazardous substances contravention notices), after "184," there shall be inserted "186,".

Commencement

Sch. 13(I) para. 8: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 8: England, Wales

Law In Force

9.
Before section 27 there shall be inserted the following section—

26A.— "Fees for consent applications.

(1) Provision may be made by regulations for the payment of a fee of the prescribed amount to a hazardous substances authority in respect of an application for, or for the continuation of, hazardous substances consent.

(2) Regulations under this section may provide for the payment to the Secretary of State of a fee of the prescribed amount in respect of any application which is, by virtue of regulations under section 25, deemed to have been made for hazardous substances consent.

(3) Regulations under this section may provide—

(a) for the transfer of prescribed fees received by a hazardous substances authority in respect of any application which is referred to the Secretary of State under section 20;

(b) for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by the Secretary of State;

and the regulations may make different provision for different areas or for different cases or descriptions of cases."

Commencement

Sch. 13(I) para. 9: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 9: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England

Partially Repealed With Amendments Pending

Wales

10.
In section 303(6) of the Town and Country Planning Act 1990 (meaning of "Planning Acts" for purposes of fees chargeable under that section), at the end there shall be inserted the words "or the Planning (Hazardous Substances) Act 1990.")

England

[…][1]

Notes

[1] Repealed by Planning Act 2008 c. 29 Sch.13 para.1 (April 6, 2009 as SI 2009/400)

Amendments Pending

Sch. 13(I) para. 10: repealed by Planning Act 2008 c. 29 Sch. 13 para. 1 (date to be appointed)

Commencement

Sch. 13(I) para. 10: January 1, 1992 (SI 1991/2829 art. 3)

Extent

Sch. 13(I) para. 10: England, Wales

PART II

SCOTLAND

Repealed

11.— […][1]

Notes

[1] Repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)

Repealed

12.— […][1]

Notes

[1] Repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)

Repealed

13. […][1]

Notes

[1] Repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)

SCHEDULE 14

AMENDMENTS OF THE PREVENTION OF OIL POLLUTION ACT 1971

Section 148

Repealed

1. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Repealed

2. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Repealed

3. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Repealed

4. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Repealed

5. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Repealed

6. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

Repealed

7. […][1]

Notes

[1] Except so far as the amendments relate to offences under s.2(1) of the Prevention of Oil Pollution Act 1971 c.43 by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996)

SCHEDULE 15

CONSEQUENTIAL AND MINOR AMENDMENTS OF ENACTMENTS

Section 162

Statutory nuisances: Scotland

Repealed

1. […][1]

Notes

[1] Repealed by Local Government Finance Act 1992 c. 14 Sch.14 para.1 (April 1, 1993 as SI 1993/575)

Exclusion of Alkali Works Act for prescribed processes

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially Repealed

England and Wales

2.
In the Alkali, &c. Works Regulation Act 1906 there shall be inserted, after section 2, the following section—

2A.— "Relation to Environmental Protection Act 1990, Part I.

(1) The preceding provisions of this Part of this Act shall not apply to any process which is a prescribed process as from the date which is the determination date for that process.

(2) The "determination date" for a prescribed process is—

(a) in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it;

(b) in the case of a process for which an authorisation is refused, the date of the refusal or, on an appeal, of the affirmation of the refusal.

(3) In this section "authorisation" , "enforcing authority" and "prescribed process" have the meaning given in section 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act."

.

and, immediately before section 25, as section 24A, a section in the same terms as the section 2A inserted after section 2.

Scotland

[…][1]

Notes

[1] Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(e)(i) (June 30, 2014)

Commencement

Sch. 15 para. 2: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Sch. 15 para. 2: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Stray dogs

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Scotland | England and Wales

Partially Repealed

Scotland

3.—

(1) The following provisions of the Dogs Act 1906 shall be amended as follows.

(2) The amendments made to section 3 by section 39(2) of the Local Government Act 1988 and section 128(1)(a) of the Civic Government (Scotland) Act 1982 shall cease to have effect.

(3) In section 4—

(a) subsection (1) shall be omitted;
(b) in subsection (2), for the words "so taken to a police station" there shall be substituted the words "taken to a police station in pursuance of section 150(1) of the Environmental Protection Act 1990";
(c) in subsection (2)(a), for the words from "his name and address" to "other" there shall be substituted the words "this fact and shall furnish his name and address and the police officer shall, having complied with the procedure (if any) prescribed under subsection (5) below, allow the finder to remove the dog";
(d) in subsection (3), for the words from "fails" to "section" there shall be substituted the words "removes the dog but fails to keep it for at least one month,"; and
(e) after subsection (3) or, as respects Scotland, subsection (4) there shall be inserted as subsection (4) or subsection (5) the following subsection—

> "( ) The Secretary of State may, by regulations made by statutory instrument, prescribe the procedure to be followed under subsection (2)(a) above and any instrument containing regulations under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament."

England and Wales

[…][1]

Notes

[1] Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 Sch.5(6) para.1 (April 6, 2008)

Commencement

Sch. 15 para. 3: April 1, 1992 (SI 1992/266 art. 3)

Extent

Sch. 15 para. 3(1)-(3)(e): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Statutory nuisances

Law In Force

4.—

(1) The following provisions of the Public Health Act 1936 (matters deemed statutory nuisances) shall be amended as follows.

(2) In section 141, for the words "Part III of this Act" there shall be substituted the words "Part III of the Environmental Protection Act 1990".

(3) in section 259(1), for the words "Part III of this Act" there shall be substituted the words "Part III of the Environmental Protection Act 1990".

(4) In section 268—

(a) in subsection (1), for the words "Parts III" there shall be substituted the words "Part III of the Environmental Protection Act 1990 and Parts";

(b) in subsection (2), for the words "the said Part III" there shall be substituted the words "Part III of the Environmental Protection Act 1990"; and

(c) in subsection (3), for the words "Part III of this Act" there shall be substituted the words "Part III of the Environmental Protection Act 1990".

Commencement

Sch. 15 para. 4: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 15 para. 4(1)-(4)(c): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Law In Force

5.—

(1) Section 151 of the Mines and Quarries Act 1954 (matters deemed statutory nuisances) shall be amended as follows.

(2) In subsection (2), for the words "Part III of the Public Health Act 1936" there shall be substituted the words "Part III of the Environmental Protection Act 1990".

(3) In subsection (3), for the words "Part III of the Public Health Act 1936" there shall be substituted the words "Part III of the Environmental Protection Act 1990".

(4) **[…]**[1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Commencement

Sch. 15 para. 5: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 15 para. 5(1)-(4): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Exclusion of Clean Air Act 1956 for prescribed processes

Repealed

6. […][1]

Notes

[1] Repealed by Clean Air Act 1993 c. 11 Sch.6 para.1 (August 27, 1993: as 1993 c.11)

Statutory nuisances

Repealed

7.— […][1]

Notes

[1] Repealed by Clean Air Act 1993 c. 11 Sch.6 para.1 (August 27, 1993: as 1993 c.11)

Repealed

8. […][1]

Notes

[1] Repealed by Radioactive Substances Act 1993 c. 12 Sch.6(I) para.1 (August 27, 1993: as 1993 c.12)

Law In Force

9.
In section 1(1)(g)of the Hovercraft Act 1968 (power to exclude noise nuisance proceedings), after the word “1974” there shall be inserted the words “or Part III of the Environmental Protection Act 1990.”

Commencement

Sch. 15 para. 9: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 15 para. 9: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Goods vehicle operators' licences: pollution offences

Law In Force

10.—

(1) The following provisions of the Transport Act 1968 shall be amended as follows.

(2) **[…]**[1]

(3) In section 108(1) (statutory nuisance proceedings in relation to waterways), for the words "said Act of 1936" there shall be substituted the words "Environmental Protection Act 1990".

Notes

[1] Repealed by Goods Vehicles (Licensing of Operators) Act 1995 c. 23 Sch.8(I) para.1 (January 1, 1996)

Commencement

Sch. 15 para. 10(1)-(2): April 1, 1992 (SI 1991/2829 art. 4)

Sch. 15 para. 10(3): January 14, 1991 (SI 1991/96 art. 2)

Extent

Sch. 15 para. 10(1)-(3): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

National Park Wardens

Law In Force

11.

In section 42 of the Countryside Act 1968 (National Park Wardens), in subsection (4)(a), for the words "section 1 of the Litter Act 1983" there shall be substituted the words "section 87 of the Environmental Protection Act 1990".

Commencement

Sch. 15 para. 11: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Sch. 15 para. 11: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Exclusion of Clean Air Act 1968 for prescribed processes

Repealed

12. […][1]

Notes

[1] Repealed by Clean Air Act 1993 c. 11 Sch.6 para.1 (August 27, 1993: as 1993 c.11)

Sale of electricity: Scotland

Law In Force

13.

In section 170A(3) of the Local Government (Scotland) Act 1973 (restriction on sale of electricity by local authority) after the word "prescribed," there shall be inserted the words "or in cases where it is produced from waste,".

Commencement

Sch. 15 para. 13: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Sch. 15 para. 13: Scotland

Workplace emissions into the air

Repealed

14. […][1]

Notes

[1] Repealed by Regulatory Reform (Scotland) Act 2014 (Consequential Modifications) Order 2015/374 art.5(2) (February 26, 2015)

Water, noise and atmospheric pollution

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

15.—

(1) The following provisions of the Control of Pollution Act 1974 shall be amended as follows.

(2) In section 30D, after the words "and 1965" there shall be inserted the words "and of the Environmental Protection Act 1990".

(3) In section 61(9), at the end, there shall be inserted the words "(in relation to Scotland) or section 82 of the Environmental Protection Act 1990 (in relation to England and Wales)".

(4) **[…]**[1]

(5) In section 74(2), after paragraph (b), there shall be inserted the following

"; or

(c) under section 80(4) of the Environmental Protection Act 1990,".

(6)-(9) **[…]**[2]

Notes

[1] Repealed by Deregulation Act 2015 c. 20 Sch.13(5) para.15(4) (October 1, 2015)

[2] Repealed by Clean Air Act 1993 c. 11 Sch.6 para.1 (August 27, 1993: as 1993 c.11)

Scotland

[15.—

(1) The following provisions of the Control of Pollution Act 1974 shall be amended as follows.

(2) [...]

(3) In section 61(9), at the end, there shall be inserted the words "(in relation to Scotland) or section 82 of the Environmental Protection Act 1990 (in relation to England and Wales)".

(4) **[…]**[1]

(5) In section 74(2), after paragraph (b), there shall be inserted the following

"; or

(c) under section 80(4) of the Environmental Protection Act 1990,".

] [1]

Notes

[1] Repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(e)(ii) (June 30, 2014)

Commencement

Sch. 15 para. 15(1)-(2): Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Sch. 15 para. 15(3)-(5): January 14, 1991 (SI 1991/96 art. 2)

Sch. 15 para. 15(6)-(9): April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Sch. 15 para. 15(1)-(9): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Repealed

16.— […][1]

Notes

[1] Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Exclusion of Part II of Control of Pollution Act 1974 for radioactive substances: Scotland

Partially Repealed

[…][1]

Notes

[1] Repealed, never in force in relation to Scotland by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(e)(iii) (June 30, 2014)

Commencement

Sch. 15 para. 17: Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Extent

Sch. 15 para. 17: Scotland

Statutory nuisances

Repealed

18. […][1]

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

Refuse Disposal: Scotland

Law In Force

19.—

(1) Section 1 of the Refuse Disposal (Amenity) Act 1978 (provision by waste disposal authorities of places etc. for disposal of refuse) shall be amended in relation to Scotland as follows.

(2) In subsection (1) at the end there shall be inserted the words "and to dispose of refuse so deposited".

(3) In subsection (6) for the words from "mandamus" to the end of the subsection there shall be substituted the words "by proceedings under section 45 of the Court of Session Act 1988".

(4) In subsection (7) the definition of "local authority" and the word "and" which follows it shall be omitted.

Commencement

Sch. 15 para. 19: April 1, 1992 (SI 1992/266 art. 3)

Extent

Sch. 15 para. 19(1)-(4): Scotland

Street cleansing: Scotland

Law In Force

20.

In section 25 of the Local Government and Planning (Scotland) Act 1982, for subsection (3) there shall be substituted—

> "(3) In subsection (2) above "cleansing" means such cleansing as appears to the islands or as the case may be district council to be necessary in the interests of public health or safety or of the amenities of their area but does not include operations for the removal of snow or ice and "relevant land" means any land, in the open air, to which members of the public have access and which is not comprehended in a public road within the meaning of the Roads (Scotland) Act 1984.".

Commencement

Sch. 15 para. 20: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Sch. 15 para. 20: Scotland

Byelaws relating to straw or stubble burning

Repealed

21. […][1]

Notes

[1] Repealed by Statute Law (Repeals) Act 2004 c. 14 Sch.1(13) para.1 (July 22, 2004)

Functions assignable to London port health authority

Law In Force

22.

In section 7(4) of the Public Health (Control of Disease) Act 1984 (enactments functions under which are assignable to London port health authority), after the paragraph (k) inserted by paragraph 23 of Schedule 6 to the Building Act 1984, there shall be inserted the following paragraphs—

"(l) Part I of the Environmental Protection Act 1990;
(m) Part III of the Environmental Protection Act 1990;".

Commencement

Sch. 15 para. 22: January 1, 1991 for purposes specified in 1990 c.43 s.164(2); April 1, 1991 otherwise (1990 c. 43 Pt IX s. 164(2); SI 1991/1042 art. 2(1))

Extent

Sch. 15 para. 22: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Street cleaning, etc: restriction of traffic

Repealed

23.— […][1]

Notes

[1] Repealed by Road Traffic (Temporary Restrictions) Act 1991 c. 26 Sch.2 para.1 (July 1, 1992: represents law in force as at date shown)

Statutory nuisance

Law In Force

24.
In section 76(1)(b) and (4)(a) of the Building Act 1984, for the words "sections 93 to 96 of the Public Health Act 1936" there shall be substituted the words "section 80 of the Environmental Protection Act 1990".

Commencement

Sch. 15 para. 24: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 15 para. 24: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Registers of deposits etc. at sea: Northern Ireland Assembly control of regulations

Not Yet In Force

25.
In section 25(3) of the Food and Environment Protection Act 1985 , after paragraph (a)(ii) there shall be inserted the following sub-paragraph—

> "(iii) in section 14(8), for the words from "and any such power" onwards there shall be substituted the words "and any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954; and".

Commencement

Sch. 15 para. 25: Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Extent

Sch. 15 para. 25: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Constitution of authorities for waste disposal

Partially In Force

26.
In section 10 of the Local Government Act 1985 (joint arrangements for waste disposal functions), in subsection (4), for the words "Part I of the Control of Pollution Act 1974" there shall be substituted the words "Part II of the Environmental Protection Act 1990".

Commencement

Sch. 15 para. 26: May 1, 1994 save for the purposes of its application to certain activities specified in SI 1994/1096 art.2(2); shall come into force in relation to such activities in accordance with the provisions of art.3 (SI 1994/1096 art. 2(2), art. 2(3), art. 3)

Extent

Sch. 15 para. 26-: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Meaning of household waste: competition

Law In Force

27.
In Schedule 1 to the Local Government Act 1988 (competition: collection of household waste), paragraph 1 shall be amended as follows—

(a) in sub-paragraph (1), the words "In the application of this Part to England and Wales," shall be omitted;

(b) in sub-paragraph (2)(a), for the words "section 12 of the Control of Pollution Act 1974" there shall be substituted the words "section 45 of the Environmental Protection Act 1990"; and

(c) in sub-paragraph (3), for the words "section 30(4) of the Control of Pollution Act 1974" there shall be substituted the words "section 75(8) of the Environmental Protection Act 1990"; and

(d) sub-paragraph (4) shall be omitted.

Commencement

Sch. 15 para. 27: May 1, 1994 (SI 1994/1096 art. 2(1))

Extent

Sch. 15 para. 27(a)-(d): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Exclusion of Water Act 1989 controls of exercise of trade effluent functions in case of prescribed processes

Repealed

28.— […][1]

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

Exclusion of Part III of Water Act 1989 for discharges from prescribed processes

Repealed

29.— […][1]

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

Contents of registers of National Rivers Authority

Repealed

30. […][1]

Notes

[1] Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

Carriers of controlled waste

Law In Force

31.—

(1) The Control of Pollution (Amendment) Act 1989 shall be amended as follows.

(2) In the following provisions, for the words "disposal authority" and "disposal authorities" there shall be substituted the words "regulation authority" and "regulation authorities" respectively, that is to say, in **[** sections 1(4)(a), 2(1), 2(b) and (e), (3)(a) and (e) and (4)(a), (b) and (c), 3(1), (2) and (6), 4(1), (3), (4), (5) and (8)(b) and (c), 5(1) and (4)(a), 6(1), (2), (3), (5), (7)(a) and (c), (8) and (9) and 7(1), (3)(a) and (8) **]** [1].

(3) In section 6(1)(offences justifying seizure of vehicles), in paragraph (a)(i)—

(a) after "1974" there shall be inserted the words "or section 33 of the Environmental Protection Act 1990"; and

(b) after the word "unlicensed" there shall be inserted the words "deposit, treatment or".

(4) In section 7 (enforcement)—

(a) in subsection (1), for the words from "91" to "information)" there shall be substituted the words "68(3), (4) and (5), 69, 70 and 71 of the Environmental Protection Act 1990 (powers of entry, of dealing with imminent pollution and to obtain information)";

(b) in subsection (2), paragraph (b) shall be omitted; and

(c) **[…]**[2]

(5) In section 9(1)—

(a) in the definition of "controlled waste"—

(i) for the words ", subject to subsection (2) below," there shall be substituted the words ", at any time,"; and

(ii) for the words "in Part I of the Control of Pollution Act 1974" there shall be substituted the words "for the purposes of Part II of the Environmental Protection Act 1990",

(b) the definition of "disposal authority" shall be omitted; and

(c) **[…]**[2]

(6) Section 9(2) shall be omitted.

Notes

1 Word repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

2 Repealed by Environment Act 1995 c. 25 Sch.24 para.1 (April 1, 1996 as SI 1996/186)

Commencement

Sch. 15 para. 31(1)-(3): May 31, 1991 (SI 1991/1319 art. 2)

Sch. 15 para. 31(4)(a): May 31, 1991 (SI 1991/1319 art. 2)

Sch. 15 para. 31(4)(b): January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Sch. 15 para. 31(4)(c): May 31, 1991 (SI 1991/1319 art. 2)

Sch. 15 para. 31(5)(a): April 1, 1992 (SI 1991/2829 art. 4)

Sch. 15 para. 31(5)(b)-(5)(c): May 31, 1991 (SI 1991/1319 art. 2)

Sch. 15 para. 31(6): April 1, 1992 (SI 1991/1319 art. 2; SI 1991/2829 art. 4)

Extent

Sch. 15 para. 31(1)-(6): England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

SCHEDULE 16

REPEALS

Section 162

PART I

ENACTMENTS RELATING TO PROCESSES

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
England and Wales | Scotland

Partially In Force

England and Wales

Chapter	Short title	Extent of repeal
1906 c. 14.	Alkali, &c. Works Regulation Act 1906.	The whole Act so far as unrepealed.
1956 c. 52.	Clean Air Act 1956.	Section 17(4). In section 29(1), in the proviso, paragraph (a). In section 31(1), the words from “(other” to “1906)”. Schedule 2.
1968 c. 62.	Clean Air Act 1968.	Section 11.

Chapter	Short title	Extent of repeal
1972 c. 70.	Local Government Act 1972.	In section 180(3),paragraph (b).
1973 c. 65.	Local Government (Scotland) Act 1973.	In section 142(2), paragraph (b).
1974 c. 37.	Health and Safety at Work etc. Act 1974.	Section 1(1)(d) and the word "and" preceding it. Section 5.
1974 c. 40.	Control of Pollution Act 1974.	In section 76(4), the words "or work subject to the Alkali Act". In section 78(1), the words "or work subject to the Alkali Act". In section 79(4), the words "or work subject to the Alkali Act". In section 80(3), the words "or work subject to the Alkali Act". In section 84(1), the definition of "a work subject to the Alkali Act". In section 103(1)(a), the words "Alkali Act or the". In section 105(1), the definition of "the Alkali Act".
1990 c. 43.	Environmental Protection Act 1990.	In section 79(10), the words following "Part I".

Note: The repeal of the Alkali, &c. Works Regulation Act 1906 does not extend to Northern Ireland.

Scotland

[

Chapter	Short title	Extent of repeal
1906 c. 14.	Alkali, &c. Works Regulation Act 1906.	The whole Act so far as unrepealed.
1956 c. 52.	Clean Air Act 1956.	Section 17(4). In section 29(1), in the proviso, paragraph (a). In section 31(1), the words from "(other" to "1906)". Schedule 2.
1968 c. 62.	Clean Air Act 1968.	Section 11.
1972 c. 70.	Local Government Act 1972.	In section 180(3),paragraph (b).
1973 c. 65.	Local Government (Scotland) Act 1973.	In section 142(2), paragraph (b).
[…	…	… …**]**[2]
1974 c. 40.	Control of Pollution Act 1974.	In section 76(4), the words "or work subject to the Alkali Act". In section 78(1), the words "or work subject to the Alkali Act". In section 79(4), the words "or work subject to the Alkali Act".

Chapter	Short title	Extent of repeal
		In section 80(3), the words "or work subject to the Alkali Act". In section 84(1), the definition of "a work subject to the Alkali Act". In section 103(1)(a), the words "Alkali Act or the". In section 105(1), the definition of "the Alkali Act".

Note: The repeal of the Alkali, &c. Works Regulation Act 1906 does not extend to Northern Ireland. **]** [1]

Notes

[1] Entry repealed by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) Sch.3(5) para.23(f) (June 30, 2014)

[2] Entry repealed by Regulatory Reform (Scotland) Act 2014 (Consequential Modifications) Order 2015/374 art.5(3) (February 26, 2015)

Commencement

Sch. 16(I) para. 1: December 1, 1994 for the repeal specified in SI 1994/2854 art.2(1) in relation to defined activities at that date or, if later, the date specified in art.2(1)(b); December 16, 1996 for repeals specified in SI 1996/3056 art.2 in relation to England and Wales; April 1, 2015 in relation to Scotland for the repeals specified in SSI 2015/72 art.2(1); not yet in force otherwise (SSI 2015/72 art. 2(1); SI 1994/2854 art. 2(1); SI 1996/3056 art. 2)

Extent

Sch. 16(I) para. 1-: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART II

ENACTMENTS RELATING TO WASTE ON LAND

Partially In Force

Chapter	Short title	Extent of repeal
1974 c. 40.	Control of Pollution Act 1974.	Sections 1 to 21. Sections 27 to 30.
1978 c. 3.	Refuse Disposal (Amenity) Act 1978.	Sections 1.
1982 c. 45.	Civic Government (Scotland) Act 1982.	Sections 124 and 125 and in section 126, subsections (1) and (3).
1988 c. 9.	Local Government Act 1988.	In Schedule 1, in paragraph 1, in sub-paragraph (1) the words "in the application of this Part to England and Wales," and sub-paragraph (4).
1989 c. 14.	Control of Pollution (Amendment) Act 1989.	In section 7(2), paragraph (b) and the word "and" preceding it.

Chapter	Short title	Extent of repeal
		In section 9, insubsection (1), the definition of "disposal authority" and subsection (2).
1989 c. 15.	Water Act 1989.	In Schedule 25, in paragraph 48, sub-paragraphs (1) to (6).
1989 c. 29.	Electricity Act 1989.	In Schedule 16, paragraph 18.
1990 c. 43.	Environmental Protection Act 1990.	In section 34(3)(b), the words following "below". Section 36(8).

Note : The repeal in the Refuse Disposal (Amenity) Act 1978 does not extend to Scotland.

Commencement

Sch. 16(II) para. 1: May 31, 1991 for repeals specified in SI 1991/1319 art.2; April 1, 1992 for repeals specified in SI 1991/2829 art.4 and SI 1992/266 art.3; May 1, 1994 for repeals specified in SI 1994/1096 art.2(1) and art.2(3) save for the purposes of their application to certain activities specified in SI 1994/1096 art.2(2) in which case commencement shall be determined in accordance with the provisions of art.3; not yet in force otherwise (SI 1991/1319 art. 2; SI 1991/2829 art. 4; SI 1992/266 art. 3; SI 1994/1096 art. 2, art. 3)

Extent

Sch. 16(II) para. 1-: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART III

ENACTMENTS RELATING TO STATUTORY NUISANCES

Law In Force

Chapter	Short title	Extent of repeal
1936 c. 49.	Public Health Act 1936.	Sections 91 to 100. Sections 107 and 108. Sections 109 and 110. In section 267(4), "III"
1956 c. 52.	Clean Air Act 1956.	Section 16. In section 30(1), the words from "or a nuisance" to "existed".
1960 c. 34.	Radioactive Substances Act 1960.	In Schedule 1— (a) In paragraph 3, the words "and ninety-two"; (b) in paragraph 3, the words "subsection (2) of section one hundred and eight"; and (c) in paragraph 8, the words "and sixteen".
1961 c. 64.	Public Health Act 1961.	Section 72.
1963 c. 33.	London Government Act 1963.	In Schedule 11, in Part I, paragraph 20.
1963 c. 41.	Offices, Shops and Railway Premises Act 1963.	Section 76(3).

Chapter	Short title	Extent of repeal
1969 c. 25.	Public Health (Recurring Nuisances) Act 1969.	The whole Act.
1972 c. 70.	Local Government Act 1972.	In section 180(3), paragraph (j). In Schedule 14— (a) in paragraph 4, the words "107(1) and (2), 108"; (b) paragraph 11; and (c) paragraph 12.
1974 c. 40.	Control of Pollution Act 1974.	In section 57, paragraph (a). Sections 58 and 59. In section 69, insubsection (1), paragraph (a) and, in paragraph (c), the words "section 59(2) or", and in subsection (3) the words "section 59(6) or" and paragraph (i). In Schedule 2, paragraphs 11 and 12.
1982 c. 30.	Local Government (Miscellaneous Provisions) Act 1982.	Section 26(1) and (2).
1989 c. 17.	Control of Smoke Pollution Act 1989.	Section 1.
1990 c. 8.	Town and Country Planning Act 1990.	In Schedule 17, paragraph 1.

Note : The repeals in the Clean Air Act 1956, the Control of Pollution Act 1974 and the Control of Smoke Pollution Act 1989 do not extend to Scotland.

Commencement

Sch. 16(III) para. 1: January 1, 1991 (1990 c. 43 Pt IX s. 164(2))

Extent

Sch. 16(III) para. 1: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART IV

ENACTMENTS RELATING TO LITTER

Law In Force

Chapter	Short title	Extent of repeal
1974 c. 40.	Control of Pollution Act 1974.	Section 22(1) and (2).
1982 c. 43.	Local Government and Planning (Scotland) Act 1982.	Section 25(1).
1983 c. 35.	Litter Act 1983.	Section 1 and 2. Section 12(1).
1986 c. ii.	Berkshire Act 1986.	Section 13.
1987 c. xi.	Exeter City Council Act 1987.	Section 24.

Chapter	Short title	Extent of repeal
1988 c. viii.	City of Westminster Act 1988.	The whole Act.
1990 c. vii.	London Local Authorities Act 1990.	Section 43.

Commencement

Sch. 16(IV) para. 1: April 1, 1991 (SI 1991/1042 art. 2(1))

Extent

Sch. 16(IV) para. 1: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART V

ENACTMENTS RELATING TO RADIOACTIVE SUBSTANCES

Law In Force

Chapter	Short title	Extent of repeal
1960 c. 34.	Radioactive Substances Act 1960.	Section 2(1). In section 4, subsection (1) and in subsection (2) the word “further”. Section 7(3)(a). Section 8(1)(a). In section 12, subsection (1), in subsection (2)(b) the words “of waste” and, at the end “and”, and in subsection (3)(b) the words “subsection (1) or”. In section 19(1) the definition of “the Minister”. Section 21(4). In Schedule 1, paragraphs 9 and 11.

Commencement

Sch. 16(V) para. 1: January 1, 1991 (SI 1990/2635 art. 3)

Extent

Sch. 16(V) para. 1: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART VI

ENACTMENTS RELATING TO NATURE CONSERVATION AND COUNTRYSIDE MATTERS

Law In Force

Chapter	Short title	Extent of repeal
1968 c. 41.	Countryside Act 1968.	In section 15(2), the words “in the national interest”. Section 19. In section 46(2), the words “and (2)”
1973 c. 54.	Nature Conservancy Council Act 1973.	In section 1, subsections (1), (2) and (4) to (8). Sections 2 and 4. In Schedule 1, paragraphs 6, 10 and 12. In Schedule 3, Parts I and II.
1981 c. 69.	Wildlife and Countryside Act 1981.	In section 34(6) the words “and Wales”. Section 38. In section 43(1A) the words “by the Countryside Commission”. In Schedule 13, paragraph 5.

Commencement

Sch. 16(VI) para. 1: April 1, 1991 for repeals specified in SI 1991/685 art.3; April 1, 1992 otherwise (SI 1991/685 art. 3; SI 1991/2829 art. 4)

Extent

Sch. 16(VI) para. 1: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART VII

ENACTMENTS RELATING TO HAZARDOUS SUBSTANCES

Partially In Force

Chapter	Short title	Extent of repeal
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	In section 56A(1), the words “and to section 56B below”. Section 56B. In section 56E(2)(e) and 56K(5)(b), the words “or Health and Safety Commission”. In section 56F(1), the words “and (3)”. Section 56F(3).

Chapter	Short title	Extent of repeal
		Section 56H(5). In section 56J(5), the words from “other” to “applies”. In section 56M(3), the words “Subject to subsection (4) below,”. Section 56M(4). In section 56N, insubsection (1)(b), the words from “or” to “would be” and subsection (2). In section 56O, the definition of “the appropriate body” and the word “and” immediately following.
1986 c. 63.	Housing and Planning Act 1986.	In Part II of Schedule 7, in paragraph 8 the word “56B,”.
1989 c. 29.	Electricity Act 1989.	In Schedule 17, paragraph 37(1)(b).
1990 c. 10.	Planning (Hazardous Substances) Act 1990.	In section 1, the words “2 or”. Section 2. Section 3(6). In section 9(2)(e) and 18(2)(b), the words “or Health and Safety Commission”. In section 11(7), the words “to the conditions that”. Section 13(7). In section 15(1), the words from “other” to applies)”. Section 20(6). Section 21(7). Section 27(4). In section 28(1), the words “authority who are a” and the words “by virtue of section 1 or 3”. In section 28(1)(b), the words “or but for section 2 would be”. Section 28(2). In section 29(6), the definition of “the appropriate body” and the word “and” immediately following that definition. In section 30(1), the words “by virtue of section 1 or 3”. Section 33. In section 38(2), the words “(being a local planning authority)”. In section 39(2), the entries for “the 1971 Act”, “the appropriate Minister” and “operational land”. In section 39(4), the words “2,” and “and his undertaking a statutory undertaking”. In section 39(5), the word “2,”, in the first place it occurs and the words following “undertaker” in the second place it occurs. In section 39(6), the words “and their undertakings statutory undertakings”. Section 39(7) and (8).
1990 c. 11.	Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraph 82(2).

Commencement

Sch. 16(VII) para. 1: January 1, 1992 for repeals specified in SI 1991/2829 art.3; February 18, 1993 for repeals specified in SI 1993/274 art.2(1); May 1, 1993 for the repeal specified in SI 1993/274 art.3; not yet in force otherwise (SI 1991/2829 art. 3; SI 1993/274 art. 2, art. 2(1), art. 3)

Extent

Sch. 16(VII) para. 1-: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART VIII

ENACTMENTS RELATING TO DEPOSITS AT SEA

Not Yet In Force

Chapter	Short title	Extent of repeal
1985 c. 48.	Food and Environment Protection Act 1985.	Section 5(c), (d) and (e)(iii). Section 6(1)(a)(iii). Schedule 4.

Commencement

Sch. 16(VIII) para. 1: Date to be appointed (not yet in force) (1990 c. 43 Pt IX s. 164(3))

Extent

Sch. 16(VIII) para. 1: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

PART IX

MISCELLANEOUS ENACTMENTS

Law In Force

Chapter	Short title	Extent of repeal
1906 c. 32.	Dogs Act 1906.	Section 4(1).
1974 c. 40.	Control of Pollution Act 1974.	Section 100.
1982 c. 45.	Civic Government (Scotland) Act 1982.	Section 128(1).
1982 c. 48.	Criminal Justice Act 1982.	Section 43.

Chapter	Short title	Extent of repeal
1988 c. 9.	Local Government Act 1988.	Section 39(2) and (4).
1988 c. 33.	Criminal Justice Act 1988.	Section 58.

Commencement

Sch. 16(IX) para. 1: January 1, 1991 for the repeal specified in 1990 c.43 s.164(2); April 1, 1992 for repeals specified in SI 1992/266 art.3; February 18, otherwise (1990 c. 43 Pt IX s. 164(2); SI 1992/266 art. 3; SI 1993/274 art. 2(1))

Extent

Sch. 16(IX) para. 1-: England, Wales, Scotland (December 30, 2003 extended to Scotland, except ss 45A, 45B and 47A by 2003 c.29, s.4)

Modifications

Provision	Modification	Notes	Further Information
Whole Document	National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1	Modified in relation to the transfer of functions to the National Assembly of Wales	
Pt I s. 8	Sulphur Content of Liquid Fuels (England and Wales) Regulations 2000/1460, Sch. 1 para. 8	Modified for the purpose of prescribing a fee payable in respect of an application for a sulphur contents of liquid fuels permit	
Pt I s. 15	Control of Major Accident Hazards Regulations 1999/743, Sch. 8 para. 14	Modified in relation to an appeal under SI 1999/743 Sch.8 para.13	Pt 6 reg. 21(4)
Pt II	Controlled Waste (England and Wales) Regulations 2012/811, reg. 5	Modified in relation to references to litter and refuse collected under 1990 c.43 s.45	
	Controlled Waste Regulations 1992/588, reg. 8	Modified in relation to litter and refuse	
Pt II s. 33	Waste Management Licensing (Scotland) Regulations 2011/228 (Scottish SI), Sch. 4(1) para. 11	Modified in relation to the Waste Framework Directive	reg. 2(1)reg. 29
Pt II s. 33(1)(a)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
Pt II s. 33(1)(b)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(4)	Modified in relation to submitting controlled waste to any of the operations listed in SI 1994/1056 Sch.4 Pt III or IV other than an operation mentioned in SI 1994/1056 Sch.4 Pt I para.9(3)	reg. 1(3)reg. 19
Pt II s. 33(1)(c)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(5)	Modified in relation to any reference to the treatment or disposal, or to the treatment, keeping or disposal, of controlled waste	reg. 1(3)reg. 19
Pt II s. 33(5)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
Pt II s. 33(8)	Clean Neighbourhoods and Environment Act 2005 c. 16, Pt 5 c. 2 s. 41(3)	Modified in relation to transitional provisions before the commencement of 2003 c 44 s.154(1)	
Pt II s. 35	Waste Management Licensing (Scotland) Regulations 2011/228 (Scottish SI), Sch. 4(1) para. 11(4)	Modified in relation to the Waste Framework Directive	reg. 2(1)reg. 29
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(5)	Modified in relation to any reference to the treatment or disposal, or to the treatment,	reg. 1(3)reg. 19

		keeping or disposal, of controlled waste	
Pt II s. 36	Environment Act 1995 (Commencement No. 5) Order 1996/186, art. 4	Modified in relation to England and Wales on and after April 1, 1996 in relation to any application for a licence under 1990 c.43 s.36 made, but not finally disposed of, before that date	
Pt II s. 36(3)	Waste Management Licensing (Scotland) Regulations 2011/228 (Scottish SI), Sch. 4(1) para. 11(5)	Modified in relation to the Waste Framework Directive	reg. 2(1)reg. 29
Pt II s. 45(7)	Environmental Protection Act 1990 c. 43, Pt II s. 53(2)	Modified in relation to a waste disposal authority	
Pt II s. 45(10)	Environmental Protection Act 1990 c. 43, Pt II s. 53(2)	Modified in relation to a waste disposal authority	
Pt II s. 45(10A)	Environmental Protection Act 1990 c. 43, Pt II s. 53	Modified in relation to a waste disposal authority	
Pt II s. 45A	Environmental Protection Act 1990 c. 43, Pt II s. 45B	Modified in relation to all waste collection authorities whose areas are in Wales	
Pt II s. 46(4)(ba)	London Local Authorities Act 2007 c. ii, Pt 2 s. 19	Deemed to be inserted in relation to the area of a borough council	
Pt II s. 47(4)(ba)	London Local Authorities Act 2007 c. ii, Pt 2 s. 21(1)	Deemed to be inserted in relation to the area of a borough council	
Pt II s. 50(3)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(8)	Modified in relation to any reference to the disposal of waste	reg. 1(3)reg. 19
Pt II s. 54	Environment Act 1995 c. 25, Sch. 23(I) para. 18	Modified in relation to a resolution continued in force by Sch.23 para.18(2)	
Pt II s. 54(1)(a)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
Pt II s. 54(1)(b)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(4)	Modified in relation to submitting controlled waste to any of the operations listed in SI 1994/1056 Sch.4 Pt III or IV other than an operation mentioned in SI 1994/1056 Sch.4 Pt I para.9(3)	reg. 1(3)reg. 19
Pt II s. 54(2)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(4)	Modified in relation to submitting controlled waste to any of the operations listed in SI 1994/1056 Sch.4 Pt III or IV other than an operation mentioned in SI 1994/1056 Sch.4 Pt I para.9(3)	reg. 1(3)reg. 19

Pt II s. 54(3)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(4)	Modified in relation to submitting controlled waste to any of the operations listed in SI 1994/1056 Sch.4 Pt III or IV other than an operation mentioned in SI 1994/1056 Sch.4 Pt I para.9(3)	reg. 1(3)reg. 19
Pt II s. 54(4)(d)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(4)	Modified in relation to submitting controlled waste to any of the operations listed in SI 1994/1056 Sch.4 Pt III or IV other than an operation mentioned in SI 1994/1056 Sch.4 Pt I para.9(3)	reg. 1(3)reg. 19
Pt II s. 57	Prescribed Waste (Wales) Regulations 2001/1506, reg. 2(1)	Modified in relation to Wales	
Pt II s. 59	London Local Authorities Act 2007 c. ii, Pt 2 s. 25	Modified in the area of a borough council	
Pt II s. 59(3A)	London Local Authorities Act 2012 c. ii, Pt 5 s. 17(2)	Modified in relation to waste collection authority	
Pt II s. 62(1)	Waste Management Licensing (Scotland) Regulations 2011/228 (Scottish SI), Sch. 4(1) para. 11(6)	Modified in relation to the Waste Framework Directive	reg. 2(1)reg. 29
Pt II s. 62(2)	Waste Management Licensing (Scotland) Regulations 2011/228 (Scottish SI), Sch. 4(1) para. 11(7)	Modified in relation to the Waste Framework Directive	reg. 2(1)reg. 29
Pt II s. 68(3)	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to references to a regulation authority	
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 13(2)	Modified in relation to the duty to carry out appropriate periodic inspections	
Pt II s. 68(4)	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to references to a regulation authority	
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 13(2)	Modified in relation to the duty to carry out appropriate periodic inspections	
Pt II s. 68(5)	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to references to a regulation authority	
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 13(2)	Modified in relation to the duty to carry out appropriate periodic inspections	
Pt II s. 69	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to references to a regulation authority	

	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 13(2)	Modified in relation to the duty to carry out appropriate periodic inspections	
Pt II s. 69(2)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(3)	Modified in relation to to any operation listed in SI 1994/1056 Sch.4 Pt III or IV involving such a deposit specified	reg. 1(3)reg. 19
	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 9(4)	Modified in relation to submitting controlled waste to any of the operations listed in SI 1994/1056 Sch.4 Pt III or IV other than an operation mentioned in SI 1994/1056 Sch.4 Pt I para.9(3)	reg. 1(3)reg. 19
Pt II s. 70	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to references to a regulation authority	
Pt II s. 71	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to a regulation authority	
	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to references to a regulation authority	
	Groundwater Regulations 1998/2746, reg. 15	Modified in relation to SI 1998/2746	
Pt II s. 71(2)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 13(2)	Modified in relation to the duty to carry out appropriate periodic inspections	
Pt II s. 71(3)	Waste Management Licensing Regulations 1994/1056, Sch. 4(I) para. 13(2)	Modified in relation to the duty to carry out appropriate periodic inspections	
Pt II s. 72	Control of Pollution (Amendment) Act 1989 c. 14, s. 7	Modified in relation to any functions of a regulation authority in England and Wales by virtue of 1989 c.14	
Pt IIA s. 78A	Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005/3467, Sch. 1 para. 1	Modified when dealing with harm for the purposes of the exercise by the Secretary of State of any power conferred by 1990 c.43 Pt IIA to make regulations or orders, give directions or issue guidance in relation to relevant harm	reg. 2
	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 5	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 5	Modified in relation to the identification and remediation of radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	

	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(2ZA)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(2ZB)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(2ZC)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(3)(a)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3(a)	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(4)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3(b)	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(7A)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3(c)	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(9)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3(d)	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78A(9) definition of "substance"	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment,	reg. 2

		so far as attributable to any radioactivity possessed by any substance	
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 3	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78B	Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005/3467, Sch. 1 para. 2	Modified when dealing with harm for the purposes of the exercise by the Secretary of State of any power conferred by 1990 c.43 Pt IIA to make regulations or orders, give directions or issue guidance in relation to relevant harm	reg. 2
Pt IIA s. 78B(1)	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 6(2)	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 6(2)	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78B(5)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 4	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 4	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78C	Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005/3467, Sch. 1 para. 3	Modified when dealing with harm for the purposes of the exercise by the Secretary of State of any power conferred by 1990 c.43 Pt IIA to make regulations or orders, give directions or issue guidance in relation to relevant harm	reg. 2
Pt IIA s. 78C(10)(a)	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 7(2)	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 7(2)	Radioactive contaminated land other than in circumstances where the operator of a nuclear	

		installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78C(10)(b)	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 7(2)	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 7(2)	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78C(11)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 6	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 6	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78D(8)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 7	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 7	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78E	Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005/3467, Sch. 1 para. 4	Modified when dealing with harm for the purposes of the exercise by the Secretary of State of any power conferred by 1990 c.43 Pt IIA to make regulations or orders, give directions or issue guidance in relation to relevant harm	reg. 2
	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 8	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 8	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	

	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 8	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 8	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78F	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 9	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 9	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 9	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78F(9)	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 9	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 9	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 9	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78G	Radioactive Contaminated Land (Enabling Powers) (England) Regulations 2005/3467, Sch. 1 para. 5	Modified when dealing with harm for the purposes of the exercise by the Secretary of State of any power conferred by 1990 c.43 Pt IIA to make regulations or orders, give directions or issue guidance in relation to relevant harm	reg. 2
	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 10	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any	reg. 3

		radioactivity possessed by any substance	
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 10	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78H	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 11	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 11	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 10	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78H(3)(aa)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 10(a)	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78H(4)	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 11	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
Pt IIA s. 78H(5)(a)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 10(b)	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78H(5)(c)	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 11	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78H(6)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 10(c)	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78J	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 12	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3

	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 12	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78K	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 13	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 13	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78N	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 14	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 14	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 11	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	
Pt IIA s. 78N(1A)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 11(a)	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78N(1B)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 11(a)	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78N(4)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 11(b)	Modified in relation to harm or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78P	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 15	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
Pt IIA s. 78P(1)	Radioactive Contaminated Land (Modification of	Radioactive contaminated land other than in circumstances where	

	Enactments)(England) Regulations 2006/1379, reg. 15	the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78R(1)(da)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 12	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 12	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78X	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 16	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of Enactments)(England) Regulations 2006/1379, reg. 16	Radioactive contaminated land other than in circumstances where the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78X(6)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 13	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 13	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78YA(4A)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 14	Modified in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 14	Modified in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78YB	Radioactive Contaminated Land (Modification of Enactments) (Wales) Regulations 2006/2988, reg. 17	Modified in relation to, and for the purposes of dealing with, harm so far as attributable to any radioactivity possessed by any substance	reg. 3
	Radioactive Contaminated Land (Modification of	Radioactive contaminated land other than in circumstances where	

	Enactments)(England) Regulations 2006/1379, reg. 17	the operator of a nuclear installation is liable under 1965 c 57 or in related circumstances	
Pt IIA s. 78YB(5)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 15	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78YB(2C)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 15	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78YB(6)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 15	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt IIA s. 78YB(9)	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 15	Deemed to be inserted in relation to harm or, subject to SSI 2007/179 reg.2(2), pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
	Radioactive Contaminated Land (Scotland) Regulations 2007/179 (Scottish SI), reg. 15	Deemed to be inserted in relation to harm, or pollution of the water environment, so far as attributable to any radioactivity possessed by any substance	reg. 2
Pt III	Bristol Port Health Authority Order 2010/1214, art. 4(2)	Modified for the purposes of the functions, rights and liabilities assigned to the Council by virtue of SI 2010/1214	
	Cowes Port Health Authority Order 2010/1216, art. 4(2)	Modified for the purposes of the functions, rights and liabilities assigned to Isle of Wight Council by virtue of SI 2010/1216	
	Forth Crossing Act 2011 asp 2 (Scottish Act), Pt 9 s. 71(3)	Modified in relation to other noise from the carrying out of the Forth Crossing works which is alleged to be a statutory nuisance	
	Portsmouth Port Health Authority Order 2010/1217, art. 4(2)	Modified for the purposes of the functions, rights and liabilities assigned to Portsmouth City Council by virtue of SI 2010/1217	
	Southampton Port Health Authority Order 2010/1218, art. 4(2)	Modified for the purposes of the functions, rights and liabilities assigned to the Council by virtue of SI 2010/1218	
Pt III s. 79(1)(gb)	London Local Authorities Act 1996 c. ix, Pt V s. 24(1)(a)	Deemed to be inserted in relation to a borough	

Pt III s. 79(7) definition of "vehicle"	London Local Authorities Act 1996 c. ix, Pt V s. 24(1)(c)	Deemed to be inserted in relation to a borough	
Pt III s. 79(6B)	London Local Authorities Act 1996 c. ix, Pt V s. 24(1)(b)	Deemed to be inserted in relation to a borough	
Pt III s. 80A(1)	London Local Authorities Act 1996 c. ix, Pt V s. 24(2)	Modified in relation to a borough	
Pt IV s. 87	London Local Authorities Act 2007 c. ii, Sch. 2(1) para. 1	Modified in relation to enforcement action zones	Pt 2 s. 31
Pt IV s. 87(2)(c)	London Local Authorities Act 2007 c. ii, Pt 2 s. 24(4)	Deemed to be inserted in relation to a borough	
Pt IV s. 87(4A)(c)	London Local Authorities Act 2007 c. ii, Pt 2 s. 24	Deemed to be inserted in relation to a borough	
Pt IV s. 88	Environment Act 1995 c. 25, Sch. 9 para. 12(b)	Modified in relation to a National Park authority	Pt III s. 70
Pt IV s. 88(2)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	
Pt IV s. 88(12)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
Pt IV s. 88(3)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
Pt IV s. 88(13)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
Pt IV s. 88(4)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	
Pt IV s. 88(5)	Clean Neighbourhoods and Environment Act 2005	Modified in respect of the continued effect of 1996 c.20	

	(Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)		
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	
Pt IV s. 88(6)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
	Dog Fouling (Fixed Penalty) (England) Order 2002/425, art. 2	Modified for the purposes of 1996 c.20 s.4	
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	
Pt IV s. 88(5A)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
Pt IV s. 88(6A)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
Pt IV s. 88(6B)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	
Pt IV s. 88(7)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	
Pt IV s. 88(8)	Clean Neighbourhoods and Environment Act 2005 (Commencement No.1, Transitional and Savings Provisions) (England) Order 2006/795, art. 4(3)(a)	Modified in respect of the continued effect of 1996 c.20	
	Dogs (Fouling of Land) Act 1996 c. 20, s. 4(2)	Modified in relation to fouling of land by dogs	

Pt IV s. 88(7A)	London Local Authorities Act 2007 c. ii, Sch. 2(2) para. 1	Deemed to be inserted in relation to enforcement action zones	Pt 2 s. 31
Pt IV s. 88(10) definition of "authorised officer"	London Local Authorities Act 2004 c. i, Pt 6 s. 28(3)(a)	Modified in relation to the area of a borough council	
Pt IV s. 94(1)(a)	London Local Authorities Act 2012 c. ii, Pt 3 s. 5	Modified in relation to Greater London	
Pt IV s. 98(2)	Education (Grant-maintained Special Schools) Regulations 1994/653, Sch. 1(I) para. 1	Modified in relation to grant-maintained special schools and their governing bodies	Pt 7 reg. 42(1)
Pt VI	Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188, Pt I reg. 6(3)	Modified until the coming into force of the first regulations under 1990 c.43 s.106(4C)	
Pt VI s. 106(4)	Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188, Pt I reg. 6(1)	Modified until the coming into force of the first regulations under 1990 c.43 s.106(4B)(a)	
	Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002/3188, Pt I reg. 6(2)	Modified until the coming into force of the first regulations under 1990 c.43 s.106(4B)(b)	
Pt VII s. 128(4)	Natural Heritage (Scotland) Act 1991 c. 28, Pt I s. 4(2)	Modified to continue to extend to Scotland	
Pt VII s. 128(5)	Natural Heritage (Scotland) Act 1991 c. 28, Pt I s. 4(2)	Modified to continue to extend to Scotland	
Pt VII s. 132(1)(c)	National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1	Modified in relation to the transfer of functions to the National Assembly of Wales	
Pt VII s. 132(3)	Natural Heritage (Scotland) Act 1991 c. 28, Pt I s. 4(2)	Modified to continue to extend to Scotland	
Pt VII s. 133	Natural Heritage (Scotland) Act 1991 c. 28, Pt I s. 4(4)(a)	Modified to continue to extend to Scotland	
Pt VII s. 133(2)(b)	National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1	Modified in relation to the transfer of functions to the National Assembly of Wales	
Pt VIII s. 140	Environmental Protection Act 1990 (Extension of Section 140) Regulations 1999/396, reg. 2	Modified the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to the [EU]1 obligation imposed by Council Directive 96/59/EC and to exercise any related right, and to give effect to any obligation imposed, and exercise any related right under PARCOM Decision 92/3	
Pt IX s. 160	Anti-social Behaviour Act 2003 c. 38, Pt 6 s. 48	Modified in relation to defacement removal notices	
	Anti-social Behaviour Act 2003 c. 38, Pt 6 s. 48(7)	Modified in relation to graffiti removal notices	

	Anti-social Behaviour Act 2003 c. 38, Pt 6 s. 49(3)	Modified in relation to notices under 2003 c.38 s.49(2)	
Sch. 3 para. 2	Water Services etc. (Scotland) Act 2005 asp 3 (Scottish Act), Pt 2 s. 26	Modified in relation to the exercise of functions by a local authority under 2005 c.3 s.26	
Sch. 3 para. 3	Water Services etc. (Scotland) Act 2005 asp 3 (Scottish Act), Pt 2 s. 26	Modified in relation to the exercise of functions by a local authority under 2005 c.3 s.26	
Sch. 3 para. 5	Water Services etc. (Scotland) Act 2005 asp 3 (Scottish Act), Pt 2 s. 26	Modified in relation to the exercise of functions by a local authority under 2005 c.3 s.26	
Sch. 6 para. 21	National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1	Modified in relation to the transfer of functions to the National Assembly of Wales	
Sch. 7 para. 7(3)	National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 2 para. 1	Modified in relation to the transfer of functions to the National Assembly of Wales	art. 2art. 5
Sch. 11(II) para. 12	Natural Heritage (Scotland) Act 1991 c. 28, Pt I s. 4(8)	Modified to continue to extend to Scotland	

Table of Contents

Environmental Protection Act 1990 c. 43 ..... **1**
Preamble 1
Part I INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES **2**
Preliminary **2**
s. 1 Preliminary 2
s. 2 Prescribed processes and prescribed substances 4
s. 3 Emission etc. limits and quality objectives 6
s. 4 Discharge and scope of functions 7
s. 5 Further provision as to discharge and scope of functions: Scotland 10
Authorisations **11**
s. 6 Authorisations: general provisions 11
s. 7 Conditions of authorisations 12
s. 8 Fees and charges for authorisations 15
s. 9 Transfer of authorisations 17
s. 10 Variation of authorisations by enforcing authority 18
s. 11 Variation of conditions etc: applications by holders of authorisations 20
s. 12 Revocation of authorisation 22
Enforcement **23**
s. 13 Enforcement notices 23
s. 14 Prohibition notices 25
s. 15 Appeals as respects authorisations and against variation, enforcement and prohibition notices 26
s. 16 Appointment of chief inspector and other inspectors 28
s. 17 Powers of inspectors and others 28
s. 18 Power to deal with cause of imminent danger of serious harm 28
s. 19 Obtaining of information from persons and authorities 28
Publicity **30**
s. 20 Public registers of information 30
s. 21 Exclusion from registers of information affecting national security 31
s. 22 Exclusion from registers of certain confidential information 32
Provisions as to offences **34**
s. 23 Offences 34
s. 24 Enforcement by High Court 36
s. 25 Onus of proof as regards techniques and evidence 37
s. 26 Power of court to order cause of offence to be remedied 38
s. 27 Power of chief inspector to remedy harm 39
Authorisations and other statutory controls **40**

s. 28 Authorisations and other statutory controls.. 40
Part II WASTE ON LAND.. 41
Preliminary.. 41
s. 29 Preliminary.. 41
s. 30 Authorities for purposes of this Part.. 45
s. 31 Power to create regional authorities for purposes of waste regulation.. 50
s. 32 Transition to waste disposal companies etc.. 50
Prohibition on unauthorised or harmful depositing, treatment or disposal of waste.. 50
s. 33 Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.. 50
s. 33ZA Fixed penalty notices for contravention of section 33(1)(a): England.. 56
s. 33ZB Fixed penalty notices for contravention of section 33(1)(a): Wales.. 57
s. 33A Fixed penalty notices for contraventions of section 33(1)(a) and (c): Scotland. 59
s. 33B Section 33 offences: clean-up costs.. 63
s. 33C Section 33 offences: forfeiture of vehicles.. 64
Duty of care etc. as respects waste.. 66
s. 34 Duty of care etc. as respects waste.. 66
s. 34ZA Fixed penalty notices: offences under section 34(6) relating to section 34(2A): England.. 74
s. 34ZB Fixed penalty notices: offences under section 34(6) relating to section 34(2A): Wales.. 76
s. 34A Fixed penalty notices for certain offences under section 34.. 79
Offences under sections 33 and 34: powers of seizure etc.. 82
s. 34B Power to search and seize vehicles etc.. 82
s. 34C Seizure of vehicles etc: supplementary.. 86
Wales: disposal of food waste.. 88
s. 34D Prohibition on disposal of food waste to sewer.. 88
Waste Management Licences.. 89
s. 35 Waste management licences: general.. 89
s. 35A .. 92
s. 36 Grant of licences.. 94
s. 36A Consultation before the grant of certain licences.. 98
s. 37 Variation of licences.. 100
s. 37A Consultation before certain variations.. 101
s. 38 Revocation and suspension of licences.. 103
s. 39 Surrender of licences.. 107
s. 40 Transfer of licences.. 110
s. 40A Consolidated Licences.. 112
s. 41 Fees and charges for licences.. 112
s. 42 Supervision of licensed activities.. 113

s. 43 Appeals to Secretary of State from decisions with respect to licences..... 115
s. 44 Offences of making false or misleading statements or false entries..... 117
Integrated waste management plans: Scotland..... 118
s. 44ZA Duty to prepare integrated waste management plan..... 119
s. 44ZB Approval of integrated waste management plan..... 120
s. 44ZC Implementation of integrated waste management plan..... 120
s. 44ZD Modification of integrated waste management plan..... 121
Collection, disposal or treatment of controlled waste..... 121
s. 44A National waste strategy: England and Wales..... 122
s. 44B National waste strategy: Scotland..... 122
s. 45 Collection of controlled waste..... 122
s. 45A Arrangements for separate collection of recyclable waste..... 127
s. 45AZA England: separate collection of household waste from relevant non-domestic premises..... 128
s. 45AZB England: separate collection of industrial or commercial waste..... 129
s. 45AZC Sections 45A to 45AZB: powers to exempt and extend..... 130
s. 45AZD Sections 45A to 45AZB: duties of waste collectors..... 131
s. 45AZE Sections 45 to 45AZD: guidance..... 131
s. 45AZF Sections 45AZA and 45AZB: compliance notices..... 132
s. 45AZG Sections 45AZA and 45AZB: appeals against compliance notices..... 133
s. 45AA Wales: separate collection etc. of waste..... 133
s. 45AB Code of practice..... 134
s. 45B Power to apply section 45A to Welsh waste collection authorities..... 135
s. 45C Separate collection of dry recyclable waste and food waste: Scotland..... 136
s. 46 Receptacles for household waste..... 137
s. 46A Written warnings and penalties for failure to comply with requirements relating to household waste receptacles: England..... 141
s. 46B Amount of penalty under section 46A and recovery of penalty..... 142
s. 46C Penalties under section 46A: procedure regarding notices of intent and final notices..... 143
s. 46D Appeals against penalties under section 46A..... 144
s. 47 Receptacles for commercial or industrial waste..... 145
s. 47ZA Fixed penalty notices for offences under sections 46 and 47..... 148
s. 47ZB Amount of fixed penalty under section 47ZA..... 151
s. 47A Recycling and composting: duty to report to Parliament..... 153
s. 48 Duties of waste collection authorities as respects disposal of waste collected.. 153
s. 49 Waste recycling plans by collection authorities..... 155
s. 50 Waste disposal plans of waste regulation authorities..... 155
s. 51 Functions of waste disposal authorities..... 156
s. 52 Payments for recycling and disposal etc. of waste..... 157

s. 52A Payments for delivering waste pre-separated. 161
s. 53 Duties of authorities as respects disposal of waste collected: Scotland. 162
s. 54 Special provisions for land occupied by disposal authorities: Scotland. 163
s. 55 Powers for recycling waste. 163
s. 56 Powers for recycling waste: Scotland. 164
s. 57 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered. 165
s. 58 Power of Secretary of State to require waste to be accepted, treated, disposed of or delivered: Scotland. 167
s. 59 Powers to require removal of waste unlawfully deposited. 168
s. 59ZA Section 59: supplementary power in relation to owner of land. 173
s. 59ZB Powers to require removal of waste unlawfully kept or disposed of: England and Wales. 174
s. 59ZC Section 59ZB: supplementary power in relation to owner of land. 176
s. 59A Directions in relation to exercise of powers under section 59, 59ZA, 59ZB or 59ZC. 177
s. 60 Interference with waste sites and receptacles for waste. 177
s. 61 Duty of waste regulation authorities as respects closed landfills. 180
Special waste and non-controlled waste. 181
s. 62 Special provision with respect to certain dangerous or intractable waste. 181
s. 62ZA Special provision with respect to hazardous waste in England and Wales. . 182
s. 62A Lists of waste displaying hazardous properties. 184
s. 63 Waste other than controlled waste. 185
Powers of waste collection authority or waste disposal authority in relation to generation of controlled waste. 186
s. 63A Power to take steps to minimise generation of controlled waste. 186
Publicity. 187
s. 64 Public registers. 187
s. 65 Exclusion from registers of information affecting national security. 189
s. 66 Exclusion from registers of certain confidential information. 190
s. 67 Annual reports. 193
Supervision and enforcement. 193
s. 68 Functions of Secretary of State and appointment etc. of inspectors. 193
s. 69 Powers of entry etc. of inspectors. 193
s. 70 Power to deal with cause of imminent danger of serious pollution etc. 193
s. 71 Obtaining of information from persons and authorities. 193
s. 72 Default powers of Secretary of State. 197
Supplemental. 197
s. 73 Appeals and other provisions relating to legal proceedings and civil liability. . 197
s. 73A Use of fixed penalty receipts. 198

s. 74 Meaning of "fit and proper person".. 201
s. 75 Meaning of "waste" and household, commercial and industrial waste and hazardous waste.. 203
s. 75A Modification of the Waste Framework Directive.. 209
s. 76 Application to the Isles of Scilly.. 212
s. 77 Transition from Control of Pollution Act 1974 to this Part.. 212
s. 78 This Part and radioactive substances.. 214
Part IIA CONTAMINATED LAND.. 215
s. 78A Preliminary.. 216
s. 78B Identification of contaminated land.. 225
s. 78C Identification and designation of special sites.. 226
s. 78D Referral of special site decisions to the Secretary of State.. 231
s. 78E Duty of enforcing authority to require remediation of contaminated land etc.. 232
s. 78F Determination of the appropriate person to bear responsibility for remediation.. 235
s. 78G Grant of, and compensation for, rights of entry etc.. 238
s. 78H Restrictions and prohibitions on serving remediation notices.. 240
s. 78J Restrictions on liability relating to the pollution of controlled waters.. 245
s. 78K Liability in respect of contaminating substances which escape to other land.. 247
s. 78L Appeals against remediation notices.. 251
s. 78M Offences of not complying with a remediation notice.. 255
s. 78N Powers of the enforcing authority to carry out remediation.. 257
s. 78P Recovery of, and security for, the cost of remediation by the enforcing authority.. 260
s. 78Q Special sites.. 262
s. 78QA Land no longer considered to be contaminated.. 263
s. 78R Registers.. 264
s. 78S Exclusion from registers of information affecting national security.. 266
s. 78T Exclusion from registers of certain confidential information.. 266
s. 78TA Registers: removal of information about land designated as special site.. 268
s. 78TB Effect of removal of information from register.. 269
s. 78U Reports by the appropriate Agency on the state of contaminated land.. 270
s. 78V Site-specific guidance by the appropriate Agency concerning contaminated land.. 271
s. 78W The appropriate Agency to have regard to guidance given by the Secretary of State.. 271
s. 78X Supplementary provisions.. 272
s. 78Y Application to the Isles of Scilly.. 277
s. 78YA Supplementary provisions with respect to guidance by the Secretary of State.. 277
s. 78YB Interaction of this Part with other enactments.. 279
s. 78YC This Part and radioactivity.. 283
Part III STATUTORY NUISANCES AND CLEAN AIR.. 284

Statutory nuisances **284**
s. 79 Statutory nuisances and inspections therefor 284
s. 80 Summary proceedings for statutory nuisances 299
s. 80ZA Fixed penalty notice: supplemental 306
s. 80A Abatement notice in respect of noise in street 308
s. 81 Supplementary provisions 309
s. 81A Expenses recoverable from owner to be a charge on premises 313
s. 81B Payment of expenses by instalments 314
s. 82 Summary proceedings by persons aggrieved by statutory nuisances 315
Statutory nuisances: Scotland **322**
s. 83 Statutory nuisances: Scotland 322
Termination of existing controls over offensive trades and businesses **323**
s. 84 Termination of Public Health Act controls over offensive trades etc 323
Application to gases of certain Clean Air Act provisions **324**
s. 85 Application to gases of certain Clean Air Act provisions 324
Part IV LITTER ETC **324**
Provisions relating to litter **325**
s. 86 Preliminary 325
s. 87 Offence of leaving litter 332
s. 88 Fixed penalty notices for leaving litter 334
s. 88A Littering from vehicles: civil penalty regime 342
s. 88B Guidance on littering enforcement in England and Wales 344
s. 89 Duty to keep land and highways clear of litter etc 345
s. 90 Litter control areas 354
s. 91 Summary proceedings by persons aggrieved by litter 356
s. 92 Summary proceedings by litter authorities 361
s. 92A Litter clearing notices 362
s. 92B Appeals against litter clearing notices 362
s. 92C Failure to comply with litter clearing notice 363
s. 93 Street litter control notices 363
s. 94 Street litter: supplementary provisions 364
s. 94A Fixed penalty notices relating to sections 92C and 94 365
s. 94B Free distribution of printed matter 366
s. 95 Public registers 366
s. 96 Application of Part II 369
s. 97 Transitional provision relating to section 89 371
s. 97A Fixed penalty notices: supplementary 371
s. 97B Exclusion of liability 373
s. 98 Definitions 374

Abandoned trolleys **381**
s. 99 Powers in relation to abandoned shopping and luggage trolleys 381
Part V **382**
AMENDMENT OF THE RADIOACTIVE SUBSTANCES ACT 1960 ..... **382**
s. 100 Appointment of inspectors and chief inspector 382
s. 101 Fees and charges under 1960 Act 382
s. 102 Enforcement powers of chief inspector 383
s. 103 Withdrawal of UKAEA exemptions from requirements of 1960 Act 383
s. 104 Application to Crown of 1960 Act 383
s. 105 Consequential and further amendments of 1960 Act 383
Part VI GENETICALLY MODIFIED ORGANISMS **383**
Preliminary **383**
s. 106 Purpose of Part VI and meaning of "genetically modified organisms" and related expressions 383
s. 107 Meaning of "damage to the environment", "control" and related expressions in Part VI 388
General controls **392**
s. 108 Risk assessment and notification requirements 392
s. 109 General duties relating to importation, acquisition, keeping, release or marketing of organisms 395
s. 110 Prohibition notices 397
Consents **398**
s. 111 Consents required by certain persons 398
s. 112 Consents: limitations and conditions 402
s. 113 Fees and charges 408
Inspectors **409**
s. 114 Appointment etc of inspectors 409
s. 115 Rights of entry and inspection 410
Enforcement powers and offences **412**
s. 116 Obtaining of information from persons 412
s. 117 Power to deal with cause of imminent danger of damage to the environment 413
s. 118 Offences 414
s. 119 Onus of proof as regards techniques and evidence 418
s. 120 Power of court to order cause of offence to be remedied 419
s. 121 Power of Secretary of State to remedy harm 420
Publicity **420**
s. 122 Public register of information 420
s. 123 Exclusion from register of certain information 421
Supplementary **423**
s. 124 Advisory committee for purposes of Part VI 423

s. 125 Delegation of enforcement functions.. 423
s. 126 Mode of exercise of certain functions.. 424
s. 127 Definitions.. 426
Part VII NATURE CONSERVATION IN GREAT BRITAIN AND COUNTRYSIDE MATTERS IN WALES.. 428
New Councils for England, Scotland and Wales.. 428
s. 128 Countryside Council for Wales.. 428
s. 129 Grants to the Council.. 429
Countryside matters.. 429
s. 130 Countryside functions of Welsh Council.. 429
Nature conservation in Great Britain.. 429
s. 131 Nature conservation functions: preliminary.. 429
s. 132 General functions of the Council.. 429
s. 133 Special functions of Councils.. 430
s. 134 Grants and loans by the Council.. 430
Transfer of property, rights and liabilities to new Councils.. 430
s. 135 Schemes for the transfer of property etc. of the Nature Conservancy Council.. 430
s. 136 Transfer to Welsh Council of certain property etc. of Countryside Agency.. 430
Employment by new Councils of staff of existing bodies.. 430
s. 137 Offers of employment to employees of Nature Conservancy Council and certain employees of Countryside Commission.. 430
Dissolution of Nature Conservancy Council.. 431
s. 138 Winding up and dissolution of Nature Conservancy Council.. 431
Transitional provisions and savings.. 431
s. 139 Transitional provisions and savings.. 431
Part VIII MISCELLANEOUS.. 431
Other controls on substances, articles or waste.. 431
s. 140 Power to prohibit or restrict the importation, use, supply or storage of injurious substances or articles.. 432
s. 141 Power to prohibit or restrict the importation or exportation of waste.. 436
s. 142 Powers to obtain information about potentially hazardous substances.. 440
s. 143 Public registers of land which may be contaminated.. 443
s. 144 Amendments of hazardous substances legislation.. 444
s. 145 Penalties for offences of polluting controlled waters etc.. 444
Pollution at sea.. 445
s. 146 Deposits of substances and articles in the sea, etc.. 445
s. 147 Public registers relating to deposits in the sea and incineration at sea.. 446
s. 148 Oil pollution from ships.. 447
Control of Dogs.. 448
s. 149 Seizure of stray dogs.. 448

s. 150 Delivery of stray dogs to police or local authority officer.. 449
s. 151 Enforcement of orders about collars and tags for dogs.. 451
Straw and stubble burning.. 452
s. 152 Burning of straw and stubble etc.. 452
Environmental expenditure.. 453
s. 153 Financial assistance for environmental purposes.. 453
s. 154 The Groundwork Foundation: superannuation.. 458
s. 155 Remuneration of chairman of Inland Waterways Advisory Council.. 459
Part IX GENERAL.. 459
s. 156 Power to give effect to retained EU obligations and international obligations etc.. 459
s. 157 Offences by bodies corporate.. 462
s. 158 Offences under Parts I, II, IV, VI, etc. due to fault of others.. 462
s. 159 Application to Crown.. 463
s. 160 Service of notices.. 464
s. 160A Regulations and orders.. 464
s. 161 Directions.. 466
s. 162 Consequential and minor amendments and repeals.. 466
s. 163 Financial provisions.. 468
s. 163A Application of Part VI: England and Wales.. 468
s. 164 Short title, commencement and extent.. 468
Schedule 1 AUTHORISATIONS FOR PROCESSES: SUPPLEMENTARY PROVISIONS.. 470
Part I GRANT OF AUTHORISATIONS.. 470
Applications for authorisations.. 470
para. 1 .. 470
Determination of applications.. 471
para. 2 .. 471
para. 3 .. 473
para. 4 .. 474
para. 5 .. 475
Part II VARIATION OF AUTHORISATIONS.. 476
Variations by the enforcing authority.. 476
para. 6 .. 476
Applications for variation.. 478
para. 7 .. 478
Call in of applications for variation.. 479
para. 8 .. 479
para. 9 .. 481
para. 10 .. 481

Schedule 2 WASTE DISPOSAL AUTHORITIES AND COMPANIES **482**
Part I TRANSITION TO COMPANIES **483**
Preliminary **483**
para. 1 483
Notice of direction **483**
para. 2 483
Applications for exemption from and representations about directions **484**
para. 3 484
Directions **485**
para. 4 485
Formation and status of companies **486**
para. 5 486
Transfer schemes **486**
para. 6 486
Transfer schemes: supplementary provisions **487**
para. 7 487
para. 8 488
Tax and company provisions **488**
para. 9 488
Benefit of certain planning permission **489**
para. 10 489
Right to production of documents of title **490**
para. 11 490
Proof of title by certificate **490**
para. 12 490
Construction of agreements **491**
para. 13 491
para. 14 492
Third parties affected by vesting provisions **492**
para. 15 492
Transfer of staff **493**
para. 16 493
Information for purposes of transfer scheme **494**
para. 17 494
Part II PROVISIONS REGULATING WASTE DISPOSAL AUTHORITIES AND COMPANIES **494**
Terms of waste disposal contracts **494**
para. 18 494
para. 19 495

Procedure for putting waste disposal contracts out to tender **496**
para. 20 496
para. 21 496
Variation of waste disposal contracts **497**
para. 22 497
Avoidance of restrictions on transfer of securities of companies **498**
para. 23 498
Schedule 2A OBJECTIVES FOR THE PURPOSES OF THE NATIONAL WASTE STRATEGY **498**
para. 1 499
para. 2 499
para. 3 500
para. 4 500
para. 5 501
Schedule 2B CATEGORIES OF WASTE **501**
para. 1 502
para. 2 502
para. 3 503
para. 4 503
para. 5 504
para. 6 505
para. 7 505
para. 8 506
para. 9 506
para. 10 507
para. 11 507
para. 12 508
para. 13 508
para. 14 509
para. 15 510
para. 16 510
Schedule 3 STATUTORY NUISANCES: SUPPLEMENTARY PROVISIONS **511**
Appeals to magistrates' court **511**
para. 1 511
Appeals to Sheriff **512**
para. 1A 512
Powers of entry etc. **512**
para. 2 512
para. 2A 513

Offences relating to entry **514**
para. 3 514
Default powers **515**
para. 4 516
Protection from personal liability **517**
para. 5 518
Statement of right of appeal in notices **518**
para. 6 518
Schedule 3A FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED LAND **518**
para. 1 Offence of unauthorised distribution 519
para. 2 Designation 521
para. 3 Consent and conditions 523
para. 4 Fees 526
para. 5 Appeals 527
para. 6 Seizure of material 528
para. 7 Fixed penalty notices 529
para. 8 Supplementary 532
Schedule 4 ABANDONED SHOPPING AND LUGGAGE TROLLEYS **533**
Application **533**
para. 1 533
Power to seize and remove trolleys **534**
para. 2 534
Retention, return and disposal of trolleys **535**
para. 3 535
para. 3A 537
Charges **538**
para. 4 538
Definitions **540**
para. 5 540
Schedule 5 FURTHER AMENDMENTS OF THE RADIOACTIVE SUBSTANCES ACT 1960 . . . . . **540**
Part I MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS **540**
Amendments relating to appointment of chief inspector **541**
para. 1 541
para. 2 541
para. 3 541
Amendments consequential on the introduction of fees and charges **541**
para. 4 541

para. 5 541
Documents to be sent to local authorities..... 542
para. 6 542
Mobile radioactive apparatus..... 542
para. 7 542
Site and disposal records..... 542
para. 8 542
Hearings in connection with certain authorisations..... 542
para. 9 542
Appeals against certain other decisions of the chief inspector..... 543
para. 10 543
Period within which applications under Act to be determined..... 543
para. 11 543
Directions to chief inspector..... 543
para. 12 543
Inspectors: powers and protection..... 543
para. 13 543
Offences under 1960 Act..... 544
para. 14 544
Public access to certain information..... 544
para. 15 544
Expenses and receipts..... 544
para. 16 544
Meaning of "radioactive material" for purposes of 1960 Act..... 544
para. 17 544
Part II AMENDMENTS RELATING TO SCOTLAND AND NORTHERN IRELAND..... 545
Scotland..... 545
para. 18 545
para. 19 545
Northern Ireland..... 545
para. 20 545
Schedule 6 THE COUNTRYSIDE COUNCIL FOR WALES: CONSTITUTION..... 545
Preliminary..... 546
para. 1 546
Constitution and membership..... 546
para. 2 546
para. 3 546
para. 4 546

- para. 5 547
- para. 6 547

Remuneration and allowances for members of council **547**

- para. 7 547

Staff **547**

- para. 8 547
- para. 9 547
- para. 10 548
- para. 11 548

Proceedings **548**

- para. 12 548

Delegation of powers **548**

- para. 13 548

Committees **549**

- para. 14 549

Documents **549**

- para. 15 549
- para. 16 549

Public Records **549**

- para. 17 549

Land **550**

- para. 18 550

Reports, accounts etc. **550**

- para. 19 550
- para. 20 550
- para. 21 550

Superannuation Act 1965 (c.74) **550**

- para. 22 551

Parliamentary Commissioner Act 1967 (c.13) **551**

- para. 23 551

House of Commons Disqualification Act 1975 (c.24) **551**

- para. 24 551

Inheritance Tax Act 1984 (c.51) **551**

- para. 25 551

Schedule 7 THE JOINT NATURE CONSERVATION COMMITTEE **551**

Preliminary **552**

- para. 1 552

Membership **552**

- para. 2 552

para. 3 552
para. 4 552
Remuneration and allowances for members..... 552
para. 5 553
para. 6 553
Staff etc. and expenses..... 553
para. 7 553
Proceedings..... 553
para. 8 553
Delegation of functions..... 553
para. 9 553
Annual reports..... 554
para. 10 554
Schedule 8 AMENDMENT OF ENACTMENTS RELATING TO COUNTRYSIDE MATTERS..... 554
National Parks and Access to the Countryside Act 1949 (c. 97)..... 554
para. 1 554
The Countryside Act 1968 (c.41)..... 554
para. 2 554
Local Government Act 1972 (c.70)..... 555
para. 3 555
Local Government Act 1974 (c.7)..... 555
para. 4 555
Highways Act 1980 (c. 66)..... 555
para. 5 555
Wildlife and Countryside Act 1981 (c. 69)..... 555
para. 6 555
The Road Traffic Regulation Act 1984 (c.27)..... 556
para. 7 556
The Water Act 1989 (c. 15)..... 556
para. 8 556
Schedule 9 AMENDMENT OF ENACTMENTS CONFERRING NATURE CONSERVANCY FUNCTIONS..... 556
National Parks and Access to the Countryside Act 1949 (c. 97)..... 556
para. 1 556
Deer (Scotland) Act 1959 (c. 40)..... 557
para. 2 557
Deer Act 1963 (c. 36)..... 557
para. 3 557

Countryside Act 1968 (c. 41) **557**
para. 4 557
Conservation of Seals Act 1970 (c. 30) **557**
para. 5 557
Badgers Act 1973 (c. 57) **558**
para. 6 558
Import of Live Fish (Scotland) Act 1978 (c. 35) **558**
para. 7 558
Import of Live Fish (England and Wales) Act 1980 (c. 27) **558**
para. 8 558
Highways Act 1980 (c. 66) **558**
para. 9 558
Animal Health Act 1981 (c. 22) **559**
para. 10 559
Wildlife and Countryside Act 1981 (c. 69) **559**
para. 11 559
Roads (Scotland) Act 1984 (c. 54) **559**
para. 12 559
Agriculture Act 1986 (c. 49) **559**
para. 13 559
Channel Tunnel Act 1987 (c. 53) **560**
para. 14 560
Norfolk and Suffolk Broads Act 1988 (c. 4) **560**
para. 15 560
Electricity Act 1989 (c. 29) **560**
para. 16 560
Water Act 1989 (c. 15) **560**
para. 17 561
Schedule 10 TRANSFER SCHEMES AND STAFF OF EXISTING COUNCILS **561**
Part I TRANSFER SCHEMES: NATURE CONSERVANCY COUNCIL **561**
Making and approval of schemes **561**
para. 1 561
Modification of schemes **561**
para. 2 561
Provision of information to Secretary of State **562**
para. 3 562
Contents of schemes **562**
para. 4 562
para. 5 562

Part II TRANSFER SCHEMES: THE COUNTRYSIDE COMMISSION **562**
Making and approval of schemes **562**
para. 6 562
Modification of schemes **563**
para. 7 563
Provision of information to Secretary of State **563**
para. 8 563
Contents of schemes **563**
para. 9 563
Part III EMPLOYMENT OF STAFF OF EXISTING BODIES **563**
Proposals for staff of Nature Conservancy Council **564**
para. 10 564
para. 11 564
Proposals for certain staff of the Countryside Commission **564**
para. 12 564
para. 13 564
Offers of employment **564**
para. 14 565
Continuity of employment, redundancy etc. **565**
para. 15 565
para. 16 565
Disputes **565**
para. 17 565
Schedule 11 TRANSITIONAL PROVISIONS AND SAVINGS FOR PART VII **565**
Part I COUNTRYSIDE FUNCTIONS **566**
Preliminary **566**
para. 1 566
Continuity of exercise of functions **566**
para. 2 566
Construction of references to the Countryside Commission **567**
para. 3 567
para. 4 568
Existing areas of outstanding natural beauty and long distance routes **568**
para. 5 568
Part II NATURE CONSERVATION FUNCTIONS **569**
Preliminary **569**
para. 6 569
para. 7 570
Continuity of exercise of functions **570**

para. 8 570
Construction of references to the Nature Conservancy Council..... 571
para. 9 571
para. 10 572
Pensions for Nature Conservancy Council staff..... 572
para. 11 572
Existing nature reserves and areas of special scientific interest..... 573
para. 12 573
Part III SUPPLEMENTARY..... 573
para. 13 574
para. 14 574
para. 15 574
Schedule 12 INJURIOUS OR HAZARDOUS SUBSTANCES: ADVISORY COMMITTEE..... 575
para. 1 575
para. 2 575
para. 3 575
para. 4 575
para. 5 576
Schedule 13 AMENDMENTS OF HAZARDOUS SUBSTANCES LEGISLATION... 576
Part I ENGLAND AND WALES..... 576
para. 1 576
para. 2 576
para. 3 578
para. 4 578
para. 5 579
para. 6 579
para. 7 579
para. 8 580
para. 9 580
para. 10 581
Part II SCOTLAND..... 581
para. 11 582
para. 12 582
para. 13 582
Schedule 14 AMENDMENTS OF THE PREVENTION OF OIL POLLUTION ACT 1971..... 582
para. 1 582
para. 2 582

para. 3 583
para. 4 583
para. 5 583
para. 6 583
para. 7 583
Schedule 15 CONSEQUENTIAL AND MINOR AMENDMENTS OF ENACTMENTS. 584
Statutory nuisances: Scotland. 584
para. 1 584
Exclusion of Alkali Works Act for prescribed processes. 584
para. 2 584
Stray dogs. 585
para. 3 585
Statutory nuisances. 586
para. 4 586
para. 5 587
Exclusion of Clean Air Act 1956 for prescribed processes. 587
para. 6 587
Statutory nuisances. 588
para. 7 588
para. 8 588
para. 9 588
Goods vehicle operators' licences: pollution offences. 588
para. 10 588
National Park Wardens. 589
para. 11 589
Exclusion of Clean Air Act 1968 for prescribed processes. 589
para. 12 589
Sale of electricity: Scotland. 590
para. 13 590
Workplace emissions into the air. 590
para. 14 590
Water, noise and atmospheric pollution. 590
para. 15 590
para. 16 592
Exclusion of Part II of Control of Pollution Act 1974 for radioactive substances: Scotland. 592
para. 17 592
Statutory nuisances. 592
para. 18 592

Refuse Disposal: Scotland **593**
para. 19 593
Street cleansing: Scotland **593**
para. 20 593
Byelaws relating to straw or stubble burning **594**
para. 21 594
Functions assignable to London port health authority **594**
para. 22 594
Street cleaning, etc: restriction of traffic **594**
para. 23 594
Statutory nuisance **595**
para. 24 595
Registers of deposits etc. at sea: Northern Ireland Assembly control of regulations . . **595**
para. 25 595
Constitution of authorities for waste disposal **596**
para. 26 596
Meaning of household waste: competition **596**
para. 27 596
Exclusion of Water Act 1989 controls of exercise of trade effluent functions in case of prescribed processes **597**
para. 28 597
Exclusion of Part III of Water Act 1989 for discharges from prescribed processes . . **597**
para. 29 597
Contents of registers of National Rivers Authority **597**
para. 30 597
Carriers of controlled waste **597**
para. 31 598
Schedule 16 REPEALS **599**
Part I ENACTMENTS RELATING TO PROCESSES **599**
para. 1 599
Part II ENACTMENTS RELATING TO WASTE ON LAND **601**
para. 1 601
Part III ENACTMENTS RELATING TO STATUTORY NUISANCES **602**
para. 1 602
Part IV ENACTMENTS RELATING TO LITTER **603**
para. 1 603
Part V ENACTMENTS RELATING TO RADIOACTIVE SUBSTANCES **604**
para. 1 604

Part VI ENACTMENTS RELATING TO NATURE CONSERVATION AND COUNTRYSIDE MATTERS **604**
para. 1 605
Part VII ENACTMENTS RELATING TO HAZARDOUS SUBSTANCES **605**
para. 1 605
Part VIII ENACTMENTS RELATING TO DEPOSITS AT SEA **607**
para. 1 607
Part IX MISCELLANEOUS ENACTMENTS **607**
para. 1 607
Modifications **609**
Table of Contents **625**