



# Food and Environment Protection Act 1985

## 1985 CHAPTER 48

### PART II

#### DEPOSITS IN THE SEA

**Modifications etc. (not altering text)**

C1 Pt. II modified (1.3.1995) by S.R. 1995/12, reg. 9

#### *Licensing*

### 5 Requirement of licences for deposit of substances and articles in the sea etc.

Subject to the following provisions of this Part of this Act, a licence under this Part of this Act is needed—

- (a) for the deposit of substances or articles within [<sup>F1</sup> the Scottish inshore region ], either in the sea or under the seabed—
  - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure ;
  - (ii) from a container floating in the sea ; or
  - (iii) from a structure on land constricted or adapted wholly or mainly for the purpose of depositing solids in the sea ;
- <sup>F2</sup>(b) .....
- (c) .....<sup>F3</sup>
- (e) for the scuttling of vessels—
  - (i) in [<sup>F4</sup> the Scottish inshore region ];<sup>F5</sup> ...
  - <sup>F5</sup>(ii) .....<sup>F6</sup>
  - (iii) .....

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

- (f) for the loading of a vessel, aircraft, hovercraft, marine structure or floating container in [<sup>F7</sup> Scotland or the Scottish inshore region ] with substances or articles for deposit anywhere in the sea or under the sea-bed ;
- (g) for the loading of a vehicle in [<sup>F8</sup> Scotland ] with substances or articles for deposit from that vehicle as mentioned in paragraph (a) <sup>F9</sup>. . . above ; and
- (h) for the towing or propelling from [<sup>F10</sup> Scotland or the Scottish inshore region ] of a vessel for scuttling anywhere at sea.

#### Textual Amendments

- F1** Words in s. 5(a) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(2)(a)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F2** S. 5(b) repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 2(2)(b), **Sch. 22 Pt. 2** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)
- F3** S. 5(c)(d) repealed (1.4.2015 for S.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 146(2)(b), 162, **Sch. 16 Pt. VIII**; S.S.I. 2015/72, art. 2(3)
- F4** Words in s. 5(e)(i) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(2)(c)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F5** S. 5(e)(ii) and word repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 2(2)(d), **Sch. 22 Pt. 2** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)
- F6** S. 5(e)(iii) repealed (1.4.2015 for S.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 146(2)(c)(ii), 162, **Sch. 16 Pt. VIII**; S.S.I. 2015/72, art. 2(3)
- F7** Words in s. 5(f) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(2)(e)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F8** Word in s. 5(g) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(2)(f)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F9** Words in s. 5(g) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. II**
- F10** Words in s. 5(h) substituted (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(2)(g)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)

#### Modifications etc. (not altering text)

- C2** S. 5 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I**, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**  
S.5 amended (1.7.1999) by S.I. 1999/1750, art. 4, **Sch. 3** (with s. 7); S.I. 1998/3178
- C3** S. 5 excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 14 para. 9**

## 6 Requirement for licences for incineration at sea etc.

- (1) Subject to the following provisions of this Part of this Act, a licence is needed—
  - (a) for the incineration of substances or articles on a vessel or marine structure—
    - (i) in [<sup>F11</sup> the Scottish inshore region ]; <sup>F12</sup>...
    - <sup>F12</sup>(ii) . . . . . <sup>F13</sup>
    - (iii) . . . . .
  - (b) for the loading of a vessel or marine structure in [<sup>F14</sup> Scotland or the Scottish inshore region ] with substances or articles for incineration anywhere at sea.
- (2) In this Act “incineration” means any combustion of substances and materials for the purpose of their thermal destruction.

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

#### Textual Amendments

- F11** Words in s. 6(1)(a)(i) substituted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 8 para. 2\(3\)\(a\)](#) (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F12** S. 6(1)(a)(ii) and word repealed (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 8 para. 2\(3\)\(b\), Sch. 22 Pt. 2](#) (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)
- F13** S. 6(1)(a)(iii) repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), ss. 146\(3\)\(b\), 162, Sch. 16 Pt. VIII](#); S.S.I. 2015/72, art. 2(3)
- F14** Words in s. 6(1)(b) substituted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 8 para. 2\(3\)\(c\)](#) (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)

#### Modifications etc. (not altering text)

- C4** S. 6 power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\), Sch. 3 Pt. I, para. 4\(1\)\(a\)](#) (with ss. 139(2), 143(2)); S.I. 1998/2789, [art. 2](#)  
S. 6 amended (1.7.1999) by [S.I. 1999/1750, art. 4, Sch. 3](#) (with s. 7); S.I. 1998/3178

- [<sup>F15</sup>**6A.** A licence under this Part of this Act is needed for an operation only if it is an operation to which, by virtue of section 34 of the Marine (Scotland) Act 2010, Part 4 of that Act does not apply.]

#### Textual Amendments

- F15** [S. 6A](#) inserted (S.) (6.4.2011) by [The Marine \(Scotland\) Act 2010 \(Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/202\), arts. 1, 10](#)

## 7 Exemptions.

- (1) [<sup>F16</sup>A licensing authority may]by order made by statutory instrument specify operations—
- which are not to need a licence; or
  - which are not to need a licence if they satisfy conditions specified in the order.
- (2) The conditions that an order under this section may specify include conditions enabling a licensing authority to require a person to obtain the authority's approval before he does anything for which a licence would be needed but for the order.
- (3) Approval under subsection (2) above may be without conditions or subject to such conditions as the authority considers appropriate.

[<sup>F17</sup>(3A) A licensing authority—

- shall consult the Food Standards Agency as to any order the authority contemplates making under this section; and
  - shall from time to time consult that Agency as to the general approach to be taken by the authority in relation to the granting of approvals and the imposition of conditions under subsections (2) and (3) (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).]
- (4) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

#### Textual Amendments

- F16** Words in s. 7(1) substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. 10(7)** (with art. 8)  
**F17** S. 7(3A) inserted (1.4.2000) by 1999 c. 28, s. 18, **Sch. 3 Pt. III para. 16(3)** (with s. 38); S.I. 2000/1066, art. 2

#### Modifications etc. (not altering text)

- C5** S. 7 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, art. 2  
 S. 7 amended (1.7.1999) by S.I. 1999/1750, art. 4, **Sch. 3** (with s. 7); S.I. 1998/3178

### [<sup>F18</sup>7A Application of Part II: further provisions.

[ Nothing in this Part of this Act shall apply to anything done—

- <sup>F19</sup>(1) (a) for the purpose of constructing or maintaining a pipeline as respects any part of which an authorisation (within the meaning of Part III of the Petroleum Act 1998) is in force; or  
 (b) for the purpose of establishing or maintaining an offshore installation within the meaning of Part IV of that Act.]

[<sup>F20</sup>(2) Nothing in this Part of this Act applies to anything done in the course of carrying on an activity for which a licence under section 4 or 18 of the Energy Act 2008 is required (gas unloading, storage and recovery, and carbon dioxide storage).

(3) For this purpose, activities are to be regarded as activities for which such a licence is required if, by virtue of such a licence, they are activities which may be carried on only with the consent of the Secretary of State or another person.

(4) Subsection (2) does not apply in relation to anything done in the course of carrying out an activity for which a licence under section 4 of the Energy Act 2008 is required in, under or over [<sup>F21</sup> the Scottish inshore region. ]

<sup>F22</sup>( 5 ) . . . . . ]

#### Textual Amendments

- F18** S. 7A inserted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 20** (with Sch. 3 para. 5(1)); S.I. 1999/161, art. 2(1)  
**F19** S. 7A(1): s. 7A renumbered as s. 7A(1) (6.4.2009) by Energy Act 2008 (c. 32), s. 110(2), **Sch. 1 para. 2(a)**; S.I. 2009/45, art. 4(a)(iii)  
**F20** S. 7A(2)-(5) inserted (6.4.2009) by Energy Act 2008 (c. 32), s. 110(2), **Sch. 1 para. 2(b)**; S.I. 2009/45, art. 4(a)(iii)  
**F21** Words in s. 7A(4) substituted for s. 7A(4)(a)(b) (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 8 para. 2(4)(a)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)  
**F22** S. 7A(5) repealed (6.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 8 para. 2(4)(b), **Sch. 22 Pt. 2** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)

## 8 Licences.

- (1) In determining whether to issue a licence a licensing authority—  
 (a) shall have regard to the need—

---

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

---

- (i) to protect the marine environment, the living resources which it supports and human health; and
    - (ii) to prevent interference with legitimate uses of the sea; and
  - (b) may have regard to such other matters as the authority considers relevant.
- (2) Without prejudice to the generality of subsection (1) above, where it appears to a licensing authority that an applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, the authority, in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.
- (3) A licensing authority—
  - (a) shall include such provisions in a licence as appear to the authority to be necessary or expedient—
    - (i) to protect the marine environment, the living resources which it supports and human health; and
    - (ii) to prevent interference with legitimate uses of the sea; and
  - (b) may include in a licence such other provisions as the authority considers appropriate.
- (4) Without prejudice to the generality of subsection (3) above, a licensing authority—
  - (a) may include in any licence provisions requiring—
    - (i) that no operation authorised by the licence shall be carried out until the licensing authority has given such further consent to or approval of the operation as the licence may specify; and
    - (ii) that automatic equipment shall be used for recording such information relating to any operation of deposit, scuttling or incineration mentioned in the licence as the licensing authority may specify; and
  - (b) may include in a licence which only authorises operations such as are mentioned in section 5(f) or (h) above or section 6(1)(b) above provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it shall take place at a specified site, whether in [<sup>F23</sup> the Scottish inshore region ] or not.
- (5) A licensing authority may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of the authority may be necessary or expedient to enable the authority to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.
- (6) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (4)(a) above, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be <sup>F24</sup>... sufficient evidence, of the matters appearing from the record.
- (7) A licensing authority may require an applicant for a licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of processing his application.
- (8) A licensing authority may also require an applicant for a licence to pay a further reasonable fee towards the expense—
  - (a) of carrying out any examinations and tests which in the opinion of the authority are necessary or expedient to enable the authority to decide—

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

- (i) whether to issue a licence to the applicant; and
  - (ii) the provisions which any licence issued to him ought to include;
  - (b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and
  - (c) of monitoring the effect of such operations.
- (9) Fees under this section shall be determined on principles settled by the Ministers with the consent of the Treasury and after consultation with organisations appearing to the Ministers to represent persons who are likely to apply for licences.
- (10) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that there has been a breach of any of its provisions.
- (11) A licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that the licence ought to be varied or revoked—
- (a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health; or
  - (b) because of increased scientific knowledge relating to any of those matters; or
  - (c) for any other reason that appears to the authority to be relevant.
- [<sup>F25</sup>(11A) The matters to which a licensing authority is to have regard in exercising powers under this section include any advice or information given to that authority by the Food Standards Agency (whether of a general nature or in relation to the exercise of a power in a particular case).
- (11B) A licensing authority shall from time to time consult the Food Standards Agency as to the general manner in which the authority proposes to exercise its powers under this section in cases involving any matter which may affect food safety or other interests of consumers in relation to food (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).]
- (12) Schedule 3 to this Act shall have effect.

#### **Textual Amendments**

- F23** Words in s. 8(4)(b) substituted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 2\(5\)\(a\)](#) (with ss. 111, 323(6), [Sch. 9 Pts. 3](#)); S.I. 2011/556, art. 3(2)(a)
- F24** Words in s. 8(6) repealed (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 2\(5\)\(b\)](#), [Sch. 22 Pt. 2](#) (with ss. 111, 323(6), [Sch. 9 Pts. 3](#)); S.I. 2011/556, art. 3(2)(a)(d)
- F25** S. 8(11A)(11B) inserted (1.4.2000) by 1999 c. 28, s. 18, [Sch. 3 Pt. III para. 16\(4\)](#) (with s. 38); S.I. 2000/1066, [art. 2](#)

#### **Modifications etc. (not altering text)**

- C6** S. 8 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), [Sch. 3 Pt. I](#), para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, [art. 2](#)
- C7** S. 8(9) applied (with modifications) (24.6.2007) by [The Marine Works \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1518\)](#), regs. 1, [3\(4\)](#)

#### [<sup>F26</sup>**8A Electronic communications apparatus: operations in tidal waters etc**

- (1) The Scottish Ministers must not issue a licence to carry out any operation which amounts to, or involves the exercise of, a right conferred by [<sup>F27</sup>Part 9 of Schedule 3A

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

of the Communications Act 2003 (the electronic communications code)] unless they are satisfied that adequate compensation arrangements have been made.

- (2) For the purposes of subsection (1) “adequate compensation arrangements” are adequate arrangements for compensating any persons—
- (a) who appear to the Scottish Ministers to be owners of interests in the tidal water or lands on, under or over which the right is to be exercised,
  - (b) for any loss or damage sustained by those persons in consequence of the operation being carried out.]

#### Textual Amendments

- F26** S. 8A inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 5](#) (with [ss. 111, 323\(6\)](#)); [S.I. 2011/556](#), art. 3(2)(a)
- F27** Words in [s. 8A\(1\)](#) substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 22](#); [S.I. 2017/1286](#), reg. 2(d)

#### *Offences relating to licensing system etc.*

### 9 Offences relating to licensing system.

- (1) Subject to subsections (3) [<sup>F28</sup>, (4) ]<sup>F29</sup> and (8) ]below, a person who—
- (a) except in pursuance of a licence and in accordance with its provisions, does anything for which a licence is needed; or
  - (b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions,
- shall be guilty of an offence.
- (2) A person who for the purpose of procuring the issue of a licence, or in purporting to carry out any duty imposed on him by the provisions of a licence—
- (a) makes a statement which he knows to be false in a material particular;
  - (b) recklessly makes a statement which is false in a material particular; or
  - (c) intentionally fails to disclose any material particular,
- shall be guilty of an offence.
- (3) Subject to subsection (4) below, it shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation to prove—
- (a) that the operation was carried out for the purpose of securing the safety of a vessel, aircraft, hovercraft or marine structure or of saving life; and
  - (b) that he took steps within a reasonable time to inform one or other of the Ministers—
    - (i) of the operation;
    - (ii) of the locality and circumstances in which it took place; and
    - (iii) of any substances or articles concerned.
- (4) A person does not have the defence provided by subsection (3) above if the court is satisfied—
- (a) that the operation—
    - (i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; and

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

- (ii) was not a reasonable step to take in the circumstances; or
- (b) that it was necessary for one of those purposes but the necessity was due to the fault of the defendant.

<sup>F30</sup>(5) .....

<sup>F30</sup>(6) .....

<sup>F30</sup>(7) .....

<sup>F31</sup>(8) It shall be a defence for a person charged with an offence under subsection (1) in relation to any operation to prove that—

- (a) for the purposes of [<sup>F32</sup>Part 10 of Schedule 3A of the Communications Act 2003 (the electronic communications code)] (undertaker's works), the person is the operator or a relevant undertaker, and
- (b) the activity was carried out for the purpose of executing emergency works, within the meaning of that code.

<sup>F33</sup> ...]

#### Textual Amendments

- F28** Word in s. 9(1) substituted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 2(6)(a)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F29** Words in s. 9(1) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 6(2)** (with ss. 111, 323(6)); S.I. 2011/556, art. 3(2)(a)
- F30** S. 9(5)-(7) repealed (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), Sch. 8 para. 2(6)(b), **Sch. 22 Pt. 2** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)
- F31** S. 9(8) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 6(3)** (with ss. 111, 323(6)); S.I. 2011/556, art. 3(2)(a)
- F32** Words in s. 9(8)(a) substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 23(a)**; S.I. 2017/1286, reg. 2(d)
- F33** Words in s. 9(8) omitted (28.12.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 23(b)**; S.I. 2017/1286, reg. 2(d)

#### Modifications etc. (not altering text)

- C8** S. 9 power to transfer functions conferred (1.12.1998) by [1998 c. 38](#), s. 22(1)(c)(5), **Sch. 3 Pt. I**, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

## 10 Power to take remedial action.

- (1) [<sup>F34</sup>A licensing authority] may carry out any operation which appears to him to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.
- (2) If [<sup>F35</sup>a licensing authority] carries out an operation under subsection (1) above, he may recover any expenses reasonably incurred by him in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to [the licensing authority] to be necessary or expedient to carry out the operation.



*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

#### Textual Amendments

- F34** Words in s. 10(1) substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(8)(a)** (with art. 8); S.I. 1998/3178
- F35** Words in s. 10(2) substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(8)(b)** (with art. 8); S.I. 1998/3178

#### Modifications etc. (not altering text)

- C9** S. 10 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**  
S. 10 amended (1.7.1999) by S.I. 1999/1750, art. 4, **Sch 3** ( with art. 7); S.I. 1998/3178
- C10** S. 10 continued (S.) (6.4.2011) by **The Marine (Scotland) Act 2010 (Transitional and Consequential Provisions) Order 2011 (S.S.I. 2011/202)**, arts. 1, 7
- C11** S. 10(1) modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**

### Enforcement

#### 11 Powers of officers.

- (1) [<sup>F36</sup> Alicensing authority] may authorise any person, subject to such limitations as may be specified in the instrument authorising him, to enforce this Part of this Act; and the following provisions of this Act shall be construed, in reference to a person so authorised, as subject to any such limitations.
- (2) Subject to the following provisions of this Act, a person so authorised may enter—
- (a) land and vehicles in [<sup>F37</sup> Scotland ];
- [<sup>F38</sup>(b) vessels, aircraft, hovercraft and marine structures in Scotland or within the Scottish inshore region,]
- if he has reasonable grounds for believing that any substances or articles intended to be deposited in the sea or under the sea-bed or incinerated on a vessel or marine structure at sea are or have been present there.
- (3) A person so authorised may board [<sup>F39</sup> any vessel within the Scottish inshore region ] if it appears to him that it is intended to be scuttled.
- (4) A person so authorised shall not enter premises used only as a dwelling for the purpose of enforcing this Part of this Act.
- (5) Schedule 2 to this Act shall have effect with respect to persons authorised to enforce this Part of this Act.

#### Textual Amendments

- F36** Words in s. 11(1) substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(9)** (with art. 8); S.I. 1998/3178
- F37** Word in s. 11(2)(a) substituted (6.4.2011) by **Marine and Coastal Access Act 2009 (c. 23)**, s. 324(3), **Sch. 8 para. 2(7)(a)(i)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F38** S. 11(2)(b) substituted for s. 11(2)(b)(c) (6.4.2011) by **Marine and Coastal Access Act 2009 (c. 23)**, s. 324(3), **Sch. 8 para. 2(7)(a)(ii)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F39** Words in s. 11(3) substituted for s. 11(2)(a)(b) (6.4.2011) by **Marine and Coastal Access Act 2009 (c. 23)**, s. 324(3), **Sch. 8 para. 2(7)(b)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)

---

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

---

**Modifications etc. (not altering text)**

**C12** S. 11 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

**12 Enforcement of Conventions.**

- (1) [<sup>F40</sup>Alicensing authority] by order made by statutory instrument—
- (a) declare that any procedure which has been developed for the effective application of the London Convention or the Oslo Convention and is specified in the order is an agreed procedure as between Her Majesty's Government in the United Kingdom and the Government of any Convention State so specified; and
  - (b) specify any of the powers conferred by this Act for the purpose of enforcing this Part of this Act as a power that may be exercised, by such persons in such circumstances and subject to such conditions or modifications as may be specified, for the purpose of enforcing that procedure.
- (2) A person who exercises any powers by virtue of an order under this section shall have the same rights and liabilities in relation to their exercise that a person authorised under section 11 above would have in relation to the exercise of any powers for the purpose of enforcing this Part of this Act.
- (3) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F40** Words in s. 12(1) substituted (30.6.1999) by S.I. 1999/1756, **art. 2, Sch. para. 10(10)** (with art. 8); S.I. 1998/3178

**Modifications etc. (not altering text)**

**C13** S. 12 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

*Miscellaneous*

**13 Powers of Ministers to test and to charge for testing.**

- (1) At the request of any person either of the Ministers may conduct tests for the purpose of ascertaining the probable effect on the marine environment and the living resources which it supports of using for the purpose of treating oil on the surface of the sea any substance produced for that purpose.
- (2) If either of the Ministers conducts any tests under this section, he may recover any expenses reasonably incurred by him in conducting them from any person at whose request they were conducted.

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C14** S. 13 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 3**
- C15** S. 13 functions made exercisable concurrently or jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 1 (as inserted (1.4.2018) by **Wales Act 2017 (c. 4), s. 71(4), Sch. 4 para. 1** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(p))

**[<sup>F41</sup>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.

---

*Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)*

---

- (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.]

#### Textual Amendments

**F41** S. 14 substituted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [s. 147](#), S.I. 1991/1319, art.2

#### Modifications etc. (not altering text)

**C16** S. 14 extended (with modifications) (22.8.1997) by [S.I. 1997/1770](#), [art. 3](#)

**C17** S. 14 extended (with modifications) (22.8.1997) by [S.I. 1997/1771](#), [art. 3](#)

**C18** S. 14 power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), [Sch. 3 Pt. I](#), para. 4(1)(a) (with [ss. 139\(2\)](#), [143\(2\)](#)); [S.I. 1998/2789](#), [art. 2](#)

## 15 Repeal of Dumping at Sea Act 1974, consequential amendments and transitional provisions.

- (1) The <sup>M1</sup>Dumping at Sea Act 1974 is hereby repealed.
- (2) Notwithstanding that repeal, Her Majesty’s Government in the United Kingdom may continue to make payments to the international organisations.
- (3) In each of the enactments to which this subsection applies for the words “the Dumping at Sea Act 1974” there shall be substituted the words “Part II of the Food and Environment Protection Act 1985”.
- (4) The enactments to which subsection (3) above applies are—
- [<sup>F42</sup>(a) sections 31(2)(*b*)(iii) and 32(4)(*b*) of the Control of Pollution Act <sup>M2</sup> 1974; ]
- <sup>F43</sup>(b) .....
- (c) section 16 of the <sup>M3</sup>Deep Sea Mining (Temporary Provisions) Act 1981.
- (5) In section 18 of the <sup>M4</sup>Offshore Petroleum Development (Scotland) Act 1975—
- (a) paragraph (h) shall cease to have effect; and
- (b) the following paragraph shall be added after paragraph (i)—
- “(j) Part II of the Food and Environment Protection Act 1985.”.
- (6) The following paragraph shall be substituted for section 42(1)(d) of the <sup>M5</sup>Local Government (Miscellaneous Provisions) Act 1976—
- “(d) Part II of the Food and Environment Protection Act 1985 (which relates to deposits in the sea).”.
- (7) Without prejudice to section 17(2) of the <sup>M6</sup>Interpretation Act 1978 (repeal and re-enactment) any licence under the Dumping at Sea Act 1974 which is in force immediately before the commencement of this Part of this Act—
- (a) shall have effect as from the commencement of this Part of this Act as if granted under this Part of this Act; and
- (b) in the case of a licence for a specified period, shall remain in force, subject to the provisions of this Part of this Act, for so much of that period as falls after the commencement of this Part of this Act.

---

**Changes to legislation:** There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II. (See end of Document for details)

---

---

### Textual Amendments

- F42** S. 15(4)(a) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(3), **Sch. 27 Pt. I**, (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F43** S. 15 (4)(b) repealed (15.2.1999) by [1998 c. 17, s. 51](#), **Sch. 5 Pt. I** (with [Sch. 3 para. 5\(1\)](#)); S.I. 1999/161, **art. 2(1)**

---

### Modifications etc. (not altering text)

- C19** S. 15 power to transfer functions conferred (1.12.1998) by [1998 c. 38, s. 22\(1\)\(c\)\(5\)](#), **Sch. 3 Pt. I, para. 4(1)(a)** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

---

### Marginal Citations

- M1** 1974 c. 20.  
**M2** 1974 c. 40  
**M3** 1981 c. 53.  
**M4** 1975 c. 8.  
**M5** 1976 c. 57.  
**M6** 1978 c. 30.

**Changes to legislation:**

There are currently no known outstanding effects for the Food and Environment Protection Act 1985, PART II.