



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART III

#### CONTROL OF POLLUTION OF WATER RESOURCES

### CHAPTER II

#### POLLUTION OFFENCES

##### *Principal offences*

#### **85 Offences of polluting controlled waters**

- (1) A person contravenes this section if he causes or knowingly permits any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters.
- (2) A person contravenes this section if he causes or knowingly permits any matter, other than trade effluent or sewage effluent, to enter controlled waters by being discharged from a drain or sewer in contravention of a prohibition imposed under section 86 below.
- (3) A person contravenes this section if he causes or knowingly permits any trade effluent or sewage effluent to be discharged—
  - (a) into any controlled waters; or
  - (b) from land in England and Wales, through a pipe, into the sea outside the seaward limits of controlled waters.
- (4) A person contravenes this section if he causes or knowingly permits any trade effluent or sewage effluent to be discharged, in contravention of any prohibition imposed under section 86 below, from a building or from any fixed plant—
  - (a) on to or into any land; or
  - (b) into any waters of a lake or pond which are not inland freshwaters.

---

*Status: This is the original version (as it was originally enacted).*

---

- (5) A person contravenes this section if he causes or knowingly permits any matter whatever to enter any inland freshwaters so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter those waters) to impede the proper flow of the waters in a manner leading, or likely to lead, to a substantial aggravation of—
- (a) pollution due to other causes; or
  - (b) the consequences of such pollution.
- (6) Subject to the following provisions of this Chapter, a person who contravenes this section or the conditions of any consent given under this Chapter for the purposes of this section shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

## **86 Prohibition of certain discharges by notice or regulations**

- (1) For the purposes of section 85 above a discharge of any effluent or other matter is, in relation to any person, in contravention of a prohibition imposed under this section if, subject to the following provisions of this section—
- (a) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge; or
  - (b) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge unless specified conditions are observed, and those conditions are not observed.
- (2) For the purposes of section 85 above a discharge of any effluent or other matter is also in contravention of a prohibition imposed under this section if the effluent or matter discharged—
- (a) contains a prescribed substance or a prescribed concentration of such a substance; or
  - (b) derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts.
- (3) Nothing in subsection (1) above shall authorise the giving of a notice for the purposes of that subsection in respect of discharges from a vessel; and nothing in any regulations made by virtue of subsection (2) above shall require any discharge from a vessel to be treated as a discharge in contravention of a prohibition imposed under this section.
- (4) A notice given for the purposes of subsection (1) above shall expire at such time as may be specified in the notice.
- (5) The time specified for the purposes of subsection (4) above shall not be before the end of the period of three months beginning with the day on which the notice is given, except in a case where the Authority is satisfied that there is an emergency which requires the prohibition in question to come into force at such time before the end of that period as may be so specified.
- (6) Where, in the case of such a notice for the purposes of subsection (1) above as (but for this subsection) would expire at a time at or after the end of the said period of three months, an application is made before that time for a consent under this Chapter in

respect of the discharge to which the notice relates, that notice shall be deemed not to expire until the result of the application becomes final—

- (a) on the grant or withdrawal of the application;
- (b) on the expiration, without the bringing of an appeal with respect to the decision on the application, of any period prescribed as the period within which any such appeal must be brought; or
- (c) on the withdrawal or determination of any such appeal.

## **87 Discharges into and from public sewers etc**

- (1) For the purposes of section 85 above where—
  - (a) any sewage effluent is discharged as mentioned in subsection (3) or (4) of that section from any sewer or works vested in a sewerage undertaker; and
  - (b) the undertaker did not cause or knowingly permit the discharge but was bound (either unconditionally or subject to conditions which were observed) to receive into the sewer or works matter included in the discharge,the undertaker shall be deemed to have caused the discharge.
- (2) A sewerage undertaker shall not be guilty of an offence under section 85 above by reason only of the fact that a discharge from a sewer or works vested in the undertaker contravenes conditions of a consent relating to the discharge if—
  - (a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works;
  - (b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and
  - (c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.
- (3) A person shall not be guilty of an offence under section 85 above in respect of a discharge which he caused or permitted to be made into a sewer or works vested in a sewerage undertaker if the undertaker was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

## **88 Defence to principal offences in respect of authorised discharges**

- (1) Subject to the following provisions of this section, a person shall not be guilty of an offence under section 85 above in respect of the entry of any matter into any waters or any discharge if the entry occurs or the discharge is made under and in accordance with, or as a result of any act or omission under and in accordance with—
  - (a) a consent given under this Chapter or under Part II of the Control of Pollution Act 1974 (which makes corresponding provision for Scotland);
  - (b) an authorisation for a prescribed process designated for central control granted under Part I of the Environmental Protection Act 1990;
  - (c) a waste management or disposal licence;
  - (d) a licence granted under Part II of the Food and Environment Protection Act 1985;
  - (e) section 163 below or section 165 of the Water Industry Act 1991 (discharges for works purposes);
  - (f) any local statutory provision or statutory order which expressly confers power to discharge effluent into water; or

---

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

---

- (g) any prescribed enactment.
- (2) Schedule 10 to this Act shall have effect, subject to section 91 below, with respect to the making of applications for consents under this Chapter for the purposes of subsection (1)(a) above and with respect to the giving, revocation and modification of such consents.
- (3) Nothing in any disposal licence shall be treated for the purposes of subsection (1) above as authorising—
  - (a) any such entry or discharge as is mentioned in subsections (2) to (4) of section 85 above; or
  - (b) any act or omission so far as it results in any such entry or discharge.
- (4) In this section—
  - “disposal licence” means a licence issued in pursuance of section 5 of the Control of Pollution Act 1974;
  - “statutory order” means—
    - (a) any order under section 168 below or section 167 of the Water Industry Act 1991 (compulsory works orders); or
    - (b) any order, byelaw, scheme or award made under any other enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;
  - and
  - “waste management licence” means such a licence granted under Part II of the the Environmental Protection Act 1990.

## **89 Other defences to principal offences**

- (1) A person shall not be guilty of an offence under section 85 above in respect of the entry of any matter into any waters or any discharge if—
  - (a) the entry is caused or permitted, or the discharge is made, in an emergency in order to avoid danger to life or health;
  - (b) that person takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry or discharge and of its polluting effects; and
  - (c) particulars of the entry or discharge are furnished to the Authority as soon as reasonably practicable after the entry occurs.
- (2) A person shall not be guilty of an offence under section 85 above by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.
- (3) A person shall not be guilty of an offence under section 85 above by reason only of his permitting water from an abandoned mine to enter controlled waters.
- (4) A person shall not, otherwise than in respect of the entry of any poisonous, noxious or polluting matter into any controlled waters, be guilty of an offence under section 85 above by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland freshwaters if—
  - (a) he deposits the refuse on the land with the consent of the Authority;
  - (b) no other site for the deposit is reasonably practicable; and
  - (c) he takes all reasonably practicable steps to prevent the refuse from entering those inland freshwaters.

---

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

---

- (5) A highway authority or other person entitled to keep open a drain by virtue of section 100 of the Highways Act 1980 shall not be guilty of an offence under section 85 above by reason of his causing or permitting any discharge to be made from a drain kept open by virtue of that section unless the discharge is made in contravention of a prohibition imposed under section 86 above.
- (6) In this section “mine” and “quarry” have the same meanings as in the Mines and Quarries Act 1954.

*Offences in connection with deposits and vegetation in rivers*

**90 Offences in connection with deposits and vegetation in rivers**

- (1) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—
  - (a) removes from any part of the bottom, channel or bed of any inland freshwaters a deposit accumulated by reason of any dam, weir or sluice holding back the waters; and
  - (b) does so by causing the deposit to be carried away in suspension in the waters.
- (2) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—
  - (a) causes or permits a substantial amount of vegetation to be cut or uprooted in any inland freshwaters, or to be cut or uprooted so near to any such waters that it falls into them; and
  - (b) fails to take all reasonable steps to remove the vegetation from those waters.
- (3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (4) Nothing in subsection (1) above applies to anything done in the exercise of any power conferred by or under any enactment relating to land drainage, flood prevention or navigation.
- (5) In giving a consent for the purposes of this section the Authority may make the consent subject to such conditions as it considers appropriate.
- (6) The Secretary of State may by regulations provide that any reference to inland freshwaters in subsection (1) or (2) above shall be construed as including a reference to such coastal waters as may be prescribed.

*Appeals in respect of consents under Chapter II*

**91 Appeals in respect of consents under Chapter II**

- (1) This section applies where the Authority, otherwise than in pursuance of a direction of the Secretary of State—
  - (a) on an application for a consent under this Chapter for the purposes of section 88(1)(a) above, has refused a consent for any discharges;
  - (b) in giving a discharge consent, has made that consent subject to conditions;

---

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

---

- (c) has revoked a discharge consent, modified the conditions of any such consent or provided that any such consent which was unconditional shall be subject to conditions;
  - (d) has, for the purposes of paragraph 7(1) or (2) of Schedule 10 to this Act, specified a period in relation to a discharge consent without the agreement of the person who proposes to make, or makes, discharges in pursuance of that consent;
  - (e) has refused a consent for the purposes of section 89(4)(a) above for any deposit; or
  - (f) has refused a consent for the purposes of section 90 above for the doing of anything by any person or, in giving any such consent, made that consent subject to conditions.
- (2) The person, if any, who applied for the consent in question, or any person whose deposits, discharges or other conduct is or would be authorised by the consent may appeal against the decision to the Secretary of State.
- (3) The Secretary of State may by regulations provide for the conduct and disposal of appeals under this section.
- (4) Without prejudice to the generality of the power conferred by subsection (3) above, regulations under that subsection may, with prescribed modifications, apply any provision of paragraphs 1(3) to (6), 2(1) and 4(4) to (6) of Schedule 10 to this Act in relation to appeals under this section.
- (5) If, on an appeal under this section the Secretary of State is of the opinion that the decision of the Authority should be modified or reversed, he may give the Authority such directions as he thinks appropriate for requiring it—
- (a) to give a consent, either unconditionally or, in the case of a discharge consent or a consent for the purposes of section 90 above, subject to such conditions as may be specified in the direction;
  - (b) to modify the conditions of any discharge consent or any consent for the purposes of section 90 above or to provide that any discharge consent which is unconditional shall be subject to such conditions as may be specified in the direction;
  - (c) to modify in accordance with the direction any provision specifying a period for the purposes of paragraph 7 of Schedule 10 to this Act.
- (6) In complying with a direction under subsection (5) above to give a consent the Authority shall not be required to comply with any requirement imposed by paragraph 3 of Schedule 10 to this Act.
- (7) Nothing in any direction under subsection (5) above or in anything done in pursuance of any such direction shall be taken to affect the lawfulness or validity of anything which was done—
- (a) in pursuance of any decision of the Authority which is to be modified or reversed under the direction; and
  - (b) before the direction is complied with.
- (8) In this section “discharge consent” means such a consent under this Chapter for any discharges or description of discharges as is given for the purposes of section 88(1)(a) above either on an application for a consent or, by virtue of paragraph 5 of Schedule 10 to this Act, without such an application having been made.