



# Rivers (Prevention of Pollution) (Scotland) Act 1951

## 1951 CHAPTER 66

### PART IV

#### GENERAL

##### *Tidal Waters*

#### **29 Application of Act to tidal waters**

- (1) The provisions of this Act shall, as from such day as the Secretary of State may by order appoint for the purpose, apply to the tidal waters specified in the Second Schedule to this Act, subject, however, to such modifications of those provisions as may be specified in the order and to any restrictions on the powers exercisable thereunder by a river purification authority which may be so specified.
- (2) Subject to this section, the Secretary of State may by order direct that the provisions of this Act shall apply to any tidal waters (other than the tidal waters referred to in the foregoing subsection) specified in the order, subject, however, to such modifications of those provisions as may be so specified and to any restrictions on the powers exercisable thereunder by a river purification authority which may be so specified.
- (3) The Secretary of State shall not make an order under subsection (2) of this section except on the application of a river purification authority or of some other person appearing to him to be interested.
- (4) The provisions of paragraphs 1 to 5 of the First Schedule to this Act shall apply with respect to the making of an order under this section, subject to the modification that any references to councils of counties or large burghs shall include references to river purification boards.
- (5) Notwithstanding anything in subsection (1) of this section or in an order under subsection (2) of this section, paragraph (c) of subsection (1) of section twenty-three

of this Act shall not apply to the use or proposed use of a vessel in any tidal waters in which a harbour authority within the meaning of the Merchant Shipping Act, 1894, exercises jurisdiction.

### *Miscellaneous Provisions*

#### **30 Local inquiries**

- (1) Where the Secretary of State is required under any provision of this Act to cause a local inquiry to be held or where in any case it appears to him to be advisable so to do in connection with any matter arising under this Act or otherwise in connection with any functions of river purification boards or river purification authorities, he shall or may, as the case may be, cause a local inquiry to be held.
- (2) Subject to the next following subsection, the provisions of subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which relate to the holding of local inquiries) shall apply to any inquiry held under this Act.
- (3) Any inquiry in relation to an order under this Act which becomes in certain circumstances subject to special parliamentary procedure shall, if the Secretary of State so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction is so given—
  - (a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945;
  - (b) if publication of notice in accordance with paragraph 1 of the First Schedule to this Act has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with; and
  - (c) the provisions of subsection (2) of this section shall not apply to such inquiry.

#### **31 Orders**

- (1) Any power conferred on the Secretary of State by this Act to make an order shall be exercisable by statutory instrument, and any statutory instrument made in exercise of the powers conferred by subsection (1) or subsection (2) of section twenty-nine of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred on the Secretary of State by this Act to make orders shall include a power, exercisable in the like manner and subject to the like conditions, to vary or revoke any such order.

#### **32 Expenses**

- (1) Any expenses incurred by the Secretary of State under this Act shall be defrayed out of moneys provided by Parliament.
- (2) Any increase attributable to this Act in the sums payable out of moneys provided by Parliament under Part "II of the Local Government Act, 1948, shall be defrayed out of moneys so provided.

### **33 Supplementary powers of Secretary of State**

For the purpose of enabling the Secretary of State to perform any of his functions under this Act, he or any person authorised by him shall have the like right to enter any land or vessel or to carry out any inspection or survey or to make copies of or extracts from any document or to obtain and take away samples as is conferred by this Act on a river purification authority or any person authorised by such an authority.

### **34 Repeal or amendment of local enactments**

- (1) The provisions of this Act shall have effect in substitution for the provisions of any local enactment with respect to the prevention of river pollution, and any such enactment shall, in so far as it is inconsistent with the provisions of this Act, cease to have effect.
- (2) If it appears to the Secretary of State that any provision of a local enactment such as is mentioned in the foregoing subsection in force immediately before the coming into operation of Part III of this Act is inconsistent with any of the provisions of this Act, or is no longer required, or requires to be amended having regard to the provisions of this Act, he may by order repeal or amend that provision as he may consider appropriate.
- (3) The provisions of the First Schedule to this Act shall apply to orders made under this section.
- (4) Nothing in this Act shall be construed as authorising, or as empowering the making of any order or byelaw or the granting of any authorisation so as to authorise, the discharge into any stream to which a local enactment applies of any matter the discharge of which into that stream is prohibited by that enactment, or the doing of any thing the doing of which is so prohibited, for the purpose of securing the cleanliness of that stream.

### **35 Interpretation**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
  - " contravention " includes failure to comply with, and " contravene " shall be construed accordingly ;
  - " fishery district board " means the district board for a fishery district for the purposes of the Salmon Fisheries (Scotland) Act, 1862, and includes the Commissioners appointed under the Tweed Fisheries Act, 1857;
  - " functions " includes powers and duties;
  - " land " includes land covered by water;
  - " large burgh " and " small burgh " have the like meanings as in the Local Government (Scotland) Act, 1947;
  - " local authority " means a county or town council, and includes a development corporation within the meaning of the New Towns Act, 1946, where the corporation is by virtue of an order made under subsection (2) of section nine of the said Act of 1946 entitled to exercise any powers under the Public Health (Scotland) Act, 1897, in relation to the construction of sewage disposal or sewerage works ;
  - " local enactment " means any local Act of Parliament, any statutory order or any provision in any such Act of Parliament or statutory order;

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

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" local water authority " has the meaning assigned to it by section five of the Water (Scotland) Act, 1946;

" navigation authority " means any persons or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock ;

" river purification authority " has the meaning assigned to it by section seventeen of this Act;

" river purification board " and " river purification board area " have the meanings assigned to them by section two of this Act;

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

" statutory order " means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

" stream " includes any river, watercourse or inland water (whether natural or artificial) and any tidal waters to which this Act applies, except that it does not include either—

(a) any body of water which does not discharge into a stream ; or

(b) any sewer vested in a local authority,

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

" tidal waters " means any part of the sea or the tidal part of any river, watercourse or inland water (whether natural or artificial) and includes the waters of any enclosed dock which adjoins tidal waters;

" trade effluent " includes any liquid (either with or without particles of matter in suspension therein) which is discharged from any premises other than surface water and domestic sewage.

- (2) For the purposes of this Act a small burgh shall be deemed to be included in the county in the area of which it is situate.
- (3) Subject to any byelaws made by virtue of paragraph (a) of subsection (1) of section twenty-five of this Act, matter shall not be deemed for the purposes of this Act to be poisonous, noxious or polluting by reason of any effect it may have in discolouring a stream, if the discoloration is harmless and inoffensive.
- (4) For the purposes of this Act, matter shall not be deemed to enter a stream on passing from one stream to another, but the two shall be regarded as together forming a single stream.
- (5) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act.
- (6) Nothing contained in this Act shall affect the law relating to nuisance.
- (7) Nothing contained in this Act shall affect section fifty of the Water (Scotland) Act, 1946 (which relates to temporary discharges of water by local water authorities in connection with the execution of works on any part of their undertaking) or any corresponding provisions of a local enactment, but where under the said section fifty or the said provisions notice of the intended discharge is required to 'be given to any person, notice shall also be' given to the river purification authority within whose area the stream affected by the discharge is situate.

- (8) Nothing contained in this Act shall affect sections sixty-one to sixty-three of the Water (Scotland) Act, 1946 (which authorise the making of byelaws for the purpose of protecting against pollution water which belongs to or may be taken by a local water authority) or any byelaws made thereunder.

**36 Short title, transitional provisions, repeal, commencement and extent**

- (1) This Act may be cited as the Rivers (Prevention of Pollution) (Scotland) Act, 1951.
- (2) The Third Schedule to this Act shall have effect in relation to the matters therein referred to, being matters arising before or shortly after the coming into operation of this Act, and for adapting to" this Act the provisions of the enactments referred to in that Schedule.
- (3) The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Part III, section thirty-four and subsection (3) of this section of this Act shall come into operation on such day as the Secretary of State may by order appoint, and the Secretary of State may appoint different days for different provisions and for different localities.
- (5) This Act shall extend to Scotland only.