



Isle of Man

Ellan Vannin

AT 14 of 1993

WATER POLLUTION ACT 1993



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Index

Section	Page
PART 1 – INLAND AND COASTAL WATERS	5
1 Application of Part 1	5
2 Water quality objectives.....	6
3 Offences of polluting controlled waters etc	8
4 Authority for discharges etc.....	10
5 Licences for discharges	11
6 Review, revocation etc of licences	13
7 Deposits and vegetation in rivers etc.....	14
8 Regulations for preventing pollution	15
9 Water protection zones	15
10 Anti-pollution works etc.....	17
11 Codes of good agricultural practice	18
12 Enforcement of Part 1	18
13 Analysis of samples	19
14 International obligations.....	20
15 Interpretation of Part 1.....	20
16 Repeals	21
PART 2 – DEPOSITS IN THE SEA	21
17 Prohibition of deposits etc at sea	21
18 Authority for deposits etc.....	22
18A Application of Part 2: further provisions	24
19 Licences for deposits etc	24
19A Reference of applications to the Cabinet Office	26
20 Variation or revocation of licences	26
21 Fees	27
22 Remedial action.....	27
23 Enforcement of Part 2.....	27
24 Testing	28
25 Enforcement of Conventions.....	28
26 Interpretation of Part 2.....	29

27	Transitional provisions.....	29
PART 3 – SUPPLEMENTAL		30
<hr/>		
28	Disclosure of information.....	30
29	Making false statements.....	31
30	Offences: general.....	31
31	Defence of due diligence.....	32
32	Registers.....	32
33	Orders and regulations.....	34
34	Short title and commencement.....	34
SCHEDULE 1		35
<hr/>		
RIGHT TO MAKE REPRESENTATIONS		35
SCHEDULE 2		37
<hr/>		
AUTHORISED PERSONS AND THEIR POWERS		37
SCHEDULE 3		41
<hr/>		
ENACTMENTS REPEALED		41
ENDNOTES		43
<hr/>		
TABLE OF LEGISLATION HISTORY		43
TABLE OF RENUMBERED PROVISIONS		43
TABLE OF ENDNOTE REFERENCES		43

**Isle of Man***Ellan Vannin*

WATER POLLUTION ACT 1993

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AN ACT to make new provision for the protection of inland and coastal waters from pollution; to control deposits in the sea; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act (up to £5,000) are as increased by the *Criminal Justice (Penalties Etc.) Act 1993* s1.

PART 1 – INLAND AND COASTAL WATERS

1 Application of Part 1

[P1989/15/103]

- (1) This Part applies to any waters (“**controlled waters**”) of any of the following classes —
- (a) the waters which extend seaward for 3 miles from the baselines from which the breadth of the territorial sea adjacent to the Island is measured (“**relevant territorial waters**”);
 - (b) any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area (“**coastal waters**”);
 - (c) the waters of any relevant lake or pond or of so much of any relevant river or watercourse as is above the freshwater limit (“**inland waters**”);
 - (d) any waters contained in any underground strata, or in —
 - (i) 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 from it; or

- (ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata (“**ground waters**”).
- (2) The Department of Environment, Food and Agriculture shall maintain, and keep available for inspection by the public free of charge, at its offices maps showing what appear to the Department of Environment, Food and Agriculture to be for the time being the fresh-water limits of every relevant river or watercourse; and in subsection (1) “**freshwater limit**”, in relation to a river or watercourse, means the place shown as the fresh-water limit of that river or watercourse in the map for the time being maintained under this subsection.¹
- (3) In this section —
- “miles” means international nautical miles of 1,852 metres;
- “lake or pond” includes a reservoir of any description;
- “relevant lake or pond” means any lake or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another lake or pond which is itself a relevant lake or pond;
- “relevant river or watercourse” means any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.
- (4) The Department of Environment, Food and Agriculture may by order provide —
- (a) that any area of the territorial sea adjacent to the Island is to be treated as if it were an area of relevant territorial waters for the purposes of this Part;
- (b) that any lake or pond which does not discharge into a relevant river or watercourse or into a relevant lake or pond is to be treated for those purposes as a relevant lake or pond;
- (c) that a lake or pond which does so discharge and is of a description specified in the order is to be treated for those purposes as if it were not a relevant lake or pond;
- (d) that a watercourse of a description so specified is to be treated for those purposes as if it were not a relevant river or watercourse.²

2 Water quality objectives

[P1989/15/104-106]

- (1) The Department of Environment, Food and Agriculture may by one or more schemes —

- (a) prescribe a system of classifying the quality of any description of controlled waters according to criteria specified in the scheme;
 - (b) by reference to one or more of the classifications prescribed under paragraph (a), establish the water quality objectives for any waters which are, or are included in, waters of a description so prescribed.³
- (2) The criteria specified under subsection (1)(a) shall consist of one or more of the following —
- (a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;
 - (b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
 - (c) specific requirements as to other characteristics of those waters;
- and a scheme under subsection (1)(a) may provide that the question whether any such requirements are satisfied may be determined by reference to such samples as may be prescribed by the scheme.
- (3) “**Water quality objective**”, in relation to any waters, means the aim that those waters should satisfy the relevant criteria on and at all times after the date specified for the purpose in the scheme in question; and for this purpose “**the relevant criteria**”, in relation to any time, are the criteria of quality which, when the scheme is made, waters must satisfy in order to achieve the classification required of the waters at that time by the scheme.
- (4) Where the Department of Environment, Food and Agriculture proposes to make a scheme under this section it shall —
- (a) publish its proposals in such manner as it thinks appropriate for bringing it to the attention of persons likely to be affected by it, specifying a period (not being less than 3 months from the date of publication) within which representations or objections with respect to the proposals may be made; and
 - (b) consider any representations or objections which are duly made and are not withdrawn.⁴
- (5) A scheme under this section shall not have effect unless it is approved by Tynwald.
- (6) The Department of Environment, Food and Agriculture shall exercise its powers under this Part so as to ensure that, so far as practicable —
- (a) the water quality objectives specified for any waters under this section are achieved at all times;

- (b) any obligations under the EU Treaties, or under international law, which relate to environmental protection and extend to the Island are complied with; and⁵
- (c) in carrying on any activity which is capable of causing serious harm to the environment, the best available techniques not entailing excessive cost are used —
 - (i) for preventing the release into controlled waters of any substance which is capable of causing serious harm to the environment or, where that is not practicable by such means, for reducing the release of any such substance to a minimum and for rendering harmless any such substance which is so released, and
 - (ii) for rendering harmless any other substances which might cause serious harm if released into controlled waters.⁶

3 Offences of polluting controlled waters etc

[P1989/15/107]

- (1) Subject to section 4, no person shall cause or knowingly permit —
 - (a) any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters;
 - (b) 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 relevant prohibition;
 - (c) any trade effluent or sewage effluent to be discharged into any controlled waters, or through a pipe into the sea outside the seaward limits of controlled waters;
 - (d) any trade effluent or sewage effluent to be discharged, in contravention of any relevant prohibition, from any building or from any fixed plant on to or into any land or into any waters of a lake or pond which are not inland waters; or
 - (e) any matter whatever to enter any inland waters so as to tend (either directly or in combination with other matters 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 —
 - (i) pollution due to other causes, or
 - (ii) the consequences of such pollution.
- (2) For the purposes of this section a discharge of any effluent or other matter is, in relation to any person, in contravention of a relevant prohibition if —

- (a) the Department of Environment, Food and Agriculture has served notice on that person prohibiting him from making or continuing the discharge; or⁷
 - (b) the Department of Environment, Food and Agriculture has served notice on him prohibiting him from making or continuing the discharge unless specified conditions are observed, and those conditions are not observed; or⁸
 - (c) the effluent or matter discharged contains a prescribed substance or a prescribed concentration of such a substance, or derives from a prescribed process or from a process involving the use of prescribed substances, or the use of prescribed substances in quantities which exceed the prescribed amounts.
- (3) Nothing in subsection (2) authorises the service of such a notice in respect of discharges from a vessel; and nothing in regulations made by virtue of subsection (2)(c) requires any discharge from a vessel to be treated as in contravention of a relevant prohibition.
- (4) Subject to subsection (5), a notice under subsection (2)(a) or (b) shall come into force on such day as is specified in the notice, which shall not be less than 3 months after the day on which the notice is given unless the Department of Environment, Food and Agriculture is satisfied that there is an emergency which requires the notice to come into force sooner.⁹
- (5) Where —
- (a) the Department of Environment, Food and Agriculture has served a notice under subsection (2)(a) or (b), other than a notice which is to come into force less than 3 months after the day on which is given, and¹⁰
 - (b) before the day on which it would come into force under subsection (4) an application is made for a licence under this Part in respect of the discharge to which the notice relates,
- the notice shall not come into force until the application is granted, refused or withdrawn.
- (6) The sewerage authority shall be deemed to have caused a discharge of sewage effluent within subsection (1)(c) or (d) where —
- (a) the effluent was discharged from any sewer or works vested in the authority, and
 - (b) the authority was bound (either unconditionally or subject to conditions which were observed) to receive into the sewer or works matter included in the discharge.¹¹
- (7) A person who contravenes subsection (1) is guilty of an offence and liable —

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £20,000, or to both;
- (b) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

4 Authority for discharges etc

[P1989/15/108]

- (1) A person is not guilty of an offence under section 3(7) 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 licence under section 5;
 - (b) a licence under Part 2; or
 - (c) a disposal licence under Part IV (refuse disposal) of the *Public Health Act 1990*.
- (2) Nothing in a disposal licence shall be treated for the purposes of subsection (1) as authorising any such entry or discharge as is mentioned in section 3(1)(b), (c) or (d) or as authorising any act or omission so far as it results in any such entry or discharge.
- (3) A person is not guilty of an offence under section 3(7) 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; and
 - (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 in writing to the Department of Environment, Food and Agriculture as soon as reasonably practicable after it occurs.¹²
- (4) A person is not guilty of an offence under section 3(7) by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.
- (5) A person is not guilty of an offence under section 3(7) by reason only of his permitting water from an abandoned mine to enter controlled waters.
- (6) Where surface water may be discharged into or through a drain and into any waters by virtue of section 27(2) of the *Highways Act 1986*, the authority or other person entitled to keep the drain open shall not be guilty of an offence under section 3(7) by reason of his causing or permitting any discharge to be made from the drain unless the discharge is made in contravention of a relevant prohibition under section 3.

- (7) The sewerage authority is not guilty of an offence under section 3(7) by reason only of the fact that a discharge from a sewer or works vested in the authority contravenes conditions of a licence 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; and
 - (b) the authority 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 authority could not reasonably have been expected to prevent the discharge into the sewer or works.¹³
- (8) A person is not guilty of an offence under section 3(7) in respect of a discharge which he caused or permitted to be made into a sewer or works vested in the sewerage authority, if the authority was bound to receive the discharge there either unconditionally or subject to conditions which were observed.¹⁴

5 Licences for discharges

[P1989/15/Sch 12]

- (1) An application for a licence to cause or permit a discharge mentioned in section 3(1)(b), (c) or (d) shall be made in writing and shall be accompanied by all such information as the Department of Environment, Food and Agriculture may reasonably require.¹⁵
- (2) An application under this section which relates to proposed discharges at 2 or more places may be treated by the Department of Environment, Food and Agriculture as separate applications for licences for discharges at each of those places.¹⁶
- (3) Unless the Department of Environment, Food and Agriculture is satisfied that the discharge in question would have no appreciable effect on the waters into which it is proposed it should be made, the Department of Environment, Food and Agriculture shall —
- (a) publish notice of the application in one or more newspapers published and circulating in the Island, specifying a period (not being less than 6 weeks from the date of publication) within which representations or objections with respect to the application may be made;
 - (b) send a copy of the application to the sewerage authority; and¹⁷
 - (c) consider any representations or objections which are duly made and are not withdrawn.¹⁸

- (4) Schedule 1 has effect to confer on the applicant for a licence the right to make representations to the Department of Environment, Food and Agriculture with respect to the determination of the application.¹⁹
- (5) The Department of Environment, Food and Agriculture may require an applicant for a licence to supply such information and permit such examinations and tests as in its opinion may be necessary or expedient to enable it to decide –
- (a) whether a licence should be granted to the applicant, and
 - (b) the conditions which any licence issued to him ought to include.²⁰
- (6) A licence shall –
- (a) specify the minimum period of the licence for the purpose of section 6(4) (which shall not, without the agreement of the applicant, be less than 2 years beginning with the date of the notice); and
 - (b) include such conditions as the Department of Environment, Food and Agriculture thinks fit.²¹
- (7) A licence may include in particular conditions –
- (a) as to the places at which discharges to which the licence relates may be made and as to the design and construction of any outlets for the discharges;
 - (b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the periods during which they may be made;
 - (c) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;
 - (d) as to the provision of facilities for taking samples of the matter discharged, and in particular as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;
 - (e) as to the provision, maintenance and testing of meters for measuring or recording the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;
 - (f) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and, in particular, of records of readings of meters and other recording apparatus provided in accordance with any other condition included in the licence; and

- (g) as to the making of returns and the giving of other information to the Department of Environment, Food and Agriculture about the nature, origin, composition, temperature, volume and rate of the discharges.²²
- (8) Any person who knowingly contravenes the conditions of a licence is guilty of an offence and liable —
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £20,000, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both;and section 4(3) to (8) applies to an offence under this subsection as it applies to an offence under section 3(7).
- (9) A licence for any discharges is not limited to discharges by a particular person and extends to discharges which are made by any person.
- (10) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (7)(e), any record produced by means of the equipment shall, in any proceedings under this Act, be evidence of the matters appearing from the record.

6 Review, revocation etc of licences

[P1989/15/Sch 12]

- (1) The Department of Environment, Food and Agriculture shall from time to time review all licences and the conditions (if any) included in the licences.²³
- (2) Subject to subsection (4), where the Department of Environment, Food and Agriculture has reviewed a licence under this section, it may by a notice served on the person making a discharge in pursuance of the licence —
 - (a) revoke the licence;
 - (b) vary the conditions of the licence; or
 - (c) in the case of an unconditional licence, provide that it shall include such conditions as may be specified in the notice;and a notice under paragraph (b) or (c) shall specify a further minimum period of the licence for the purpose of subsection (4) (which shall not, without the agreement of the person making the discharge, be less than 2 years beginning with the date of the notice).²⁴
- (3) Where the Department of Environment, Food and Agriculture reviews a licence under this section and it appears to it that no discharge has been made in pursuance of the licence at any time during the preceding 12 months, it may revoke the licence by notice in writing served on the

owner or occupier of the land from which discharges would be made in pursuance of the licence.²⁵

- (4) The powers conferred by subsection (2) may not, without the agreement of the person making the discharge, be exercised in relation to any licence within the minimum period specified under section 5(6)(a) or, as the case may be, a further minimum period specified under subsection (2).
- (5) Subsection (4) does not apply if, and to the extent that, it appears to the Department of Environment, Food and Agriculture appropriate to exercise the said powers —
 - (a) in order to give effect to any international agreement to which the United Kingdom is a party and which extends to the Island; or
 - (b) for the protection of public health or of flora or fauna dependent on an aquatic environment.²⁶
- (6) Schedule 1 has effect to confer on the holder of a licence the right to make representations to the Department of Environment, Food and Agriculture with respect to any variation or revocation of the licence made without his consent.²⁷

7 Deposits and vegetation in rivers etc

[P1989/15/109]

- (1) Where a deposit has accumulated in the bottom, channel or bed of —
 - (a) any inland waters, or
 - (b) any coastal waters specified in an order of the Department of Environment, Food and Agriculture made for the purpose of this section,²⁸

by reason of any dam, weir or sluice holding back the waters, any person who, otherwise than in exercise of a power conferred by an enactment relating to land drainage, without the consent of the Department of Environment, Food and Agriculture removes the deposit by causing it to be carried away in suspension in the waters shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.²⁹

- (2) If any person, without the consent of the Department of Environment, Food and Agriculture (which may be given subject to such conditions as it considers appropriate) —
 - (a) causes or permits a substantial amount of vegetation to be cut or uprooted in any inland waters, 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,

he is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.³⁰

- (3) Any consent of the Department of Environment, Food and Agriculture under this section may be given subject to such conditions as it thinks appropriate.³¹

8 Regulations for preventing pollution

[P1990/15/110 and 114]

- (1) The Department of Environment, Food and Agriculture may by regulations make provision —
- (a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing or controlling the entry of the matter into any controlled waters;
 - (b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed;
 - (c) for prohibiting or regulating the washing or cleaning in any controlled waters of things of a description specified in the regulations;
 - (d) for prohibiting or regulating the keeping or use on any controlled waters of vessels of a description specified in the regulations which are provided with water closets or other sanitary appliances.³²
- (2) Regulations under this section may provide that a contravention of the regulations shall be an offence, the maximum penalty for which shall not exceed, on summary conviction, imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000, or both.
- (3) In this section “sanitary appliance”, in relation to a vessel, means any appliance (other than a sink, bath or shower bath) which is designed to permit polluting matter to pass into the water where the vessel is situated and which is prescribed for the purposes of this section.

9 Water protection zones

[P1989/15/111]

- (1) Where the Department of Environment, Food and Agriculture considers that it is appropriate, with a view to preventing or controlling the entry of any poisonous, noxious or polluting matter into controlled waters, to prohibit or restrict the carrying on in any particular area of activities

which it considers are likely to result in the pollution of any such waters, it may by order make provision –

- (a) designating that area as a water protection zone; and
 - (b) prohibiting or restricting the carrying on in the designated area of such activities as may be specified or described in the order.³³
- (2) Without prejudice to the generality of subsection (1), an order under this section may –
- (a) confer power on the Department of Environment, Food and Agriculture to determine for the purposes of the order the circumstances in which the carrying on of any activities is prohibited or restricted and to determine the activities to which any such prohibition or restriction applies;³⁴
 - (b) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Department of Environment, Food and Agriculture or in contravention of any conditions subject to which any such consent is given;³⁵
 - (c) provide that a contravention of a prohibition or restriction contained in the order, or of a condition of a consent given for the purposes of any such prohibition or restriction shall be an offence, the maximum penalty for which shall not exceed, on summary conviction, imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000, or both;
 - (d) provide (subject to any regulations under subsection (4)) for anything falling to be determined under the order by the Department of Environment, Food and Agriculture to be determined in accordance with such procedure and by reference no such matters and to the opinion of such persons as may be specified in the order.³⁶
- (3) Where the Department of Environment, Food and Agriculture proposes to make an order under this section it shall –
- (a) publish a notice in one or more newspapers published and circulating in the Island, summarising the proposals, stating where a draft of the order and of any relevant map may be inspected and specifying a period (not being less than 3 months from the date of publication) within which representations or objections with respect to the proposal may be made;
 - (b) send a draft of the order and of any relevant map to the sewerage authority;³⁷
 - (c) consider any representations or objections which are duly made and are not withdrawn.³⁸

- (4) The Department of Environment, Food and Agriculture may, for the purposes of any orders under this section which require its consent to the carrying on of any activities, by regulations make provision with respect to —
- (a) applications for any such consent;
 - (b) the conditions of any such consent;
 - (c) appeals against decisions on any such application; and
 - (d) the registration of any such application or consent;
- and such regulations may apply (with or without modification) any enactment having effect in relation to licences.³⁹

10 Anti-pollution works etc

[P1989/15/115]

- (1) Subject to subsection (2), where it appears to the Department of Environment, Food and Agriculture that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, it may carry out the following works and operations —
- (a) where the matter appears likely to enter any controlled waters, works and operations for the purpose of preventing it from doing so; or
 - (b) where the matter appears to be or to have been present in, any controlled waters, works and operations for the purpose —
 - (i) of removing or disposing of the matter;
 - (ii) of remedying or mitigating any pollution caused by its presence in the waters; or
 - (iii) so far as it is practicable to do so, of restoring the waters, including any flora or fauna dependent on the aquatic environment of the waters, to their state immediately before the matter became present in the waters.⁴⁰
- (2) Nothing in subsection (1) entitles the Department of Environment, Food and Agriculture to impede or prevent the making of any discharge pursuant to a licence.⁴¹
- (3) Subject to subsection (4), where the Department of Environment, Food and Agriculture carries out any such works or operations, it may recover the expenses reasonably incurred in so doing from any person who caused or knowingly permitted the matter in question to be present —
- (a) at the place where it was likely, in the opinion of the Department of Environment, Food and Agriculture, to enter any controlled waters, or⁴²
 - (b) in any controlled waters,

as the case may be.⁴³

- (4) No such expenses shall be recoverable from a person for works or operations in respect of water from an abandoned mine which that person permitted to reach such a place as is mentioned in subsection (3)(a) or to enter any controlled waters.

11 Codes of good agricultural practice

[P1989/15/116]

- (1) The Department of Environment, Food and Agriculture may by order approve any code of practice issued (whether by those Departments or not, and whether in the Island or elsewhere) for the purpose of —
 - (a) giving practical guidance to persons engaged in agriculture or forestry with respect to activities that may affect controlled waters; and
 - (b) promoting what appear to them to be desirable practices by such persons for avoiding or minimising the pollution of any such waters.⁴⁴
- (2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but the Department of Environment, Food and Agriculture shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise —
 - (a) its power, by giving a notice under section 3(2)(a) or (b), to impose a relevant prohibition; and
 - (b) any powers conferred on the Department of Environment, Food and Agriculture by regulations under section 8.⁴⁵

12 Enforcement of Part 1

[P1989/15/147]

- (1) The Department of Environment, Food and Agriculture may authorise any person, subject to such limitations as may be specified in the instrument authorising him, to enforce this Part.⁴⁶
- (2) An authorised person may, subject to any such limitations —
 - (a) enter any premises or vessel for the purpose of —
 - (i) ascertaining whether any provision of this Part is being or has been contravened;
 - (ii) determining whether, and if so in what manner, any function conferred on the Department of Environment, Food and Agriculture by this Part should be performed; or⁴⁷
 - (iii) performing any such function;

- (b) carry out such inspections, measurements and tests on any premises or vessel entered by that person or of any articles found on any such premises or vessel, and take away such samples of water or effluent or of any land or articles, as the Department of Environment, Food and Agriculture considers appropriate for any purpose mentioned in paragraph (a) and has authorised that person to carry out or take away.⁴⁸
- (3) The powers conferred by subsection (1) for a purpose mentioned in subsection (2)(a)(i) or (ii) include power, in order to obtain the information required for that purpose, to carry out experimental borings and other works on those premises and to install and keep monitoring and other apparatus there.
- (4) Schedule 2 has effect with respect to authorised persons.

13 Analysis of samples

[P1989/15/148]

- (1) Subject to subsection (2), the result of the analysis of a sample taken on behalf of the Department of Environment, Food and Agriculture in exercise of any power conferred by this Part shall not be admissible in any legal proceedings in respect of effluent passing from any land or vessel unless the person who took the sample —
 - (a) on doing so notified the occupier of the land or the owner or master of the vessel of his intention to have it analysed;
 - (b) there and then divided the sample into 3 parts and caused each part to be placed in a container which was sealed and marked; and
 - (c) delivered one part to the occupier of the land or the owner or master of the vessel and retained one part, apart from the one he submitted to be analysed, for future comparison.⁴⁹
- (2) If it is not reasonably practicable for a person taking a sample to comply with subsection (1) on doing so, that subsection shall be treated as having been complied with if it was complied with as soon as reasonably practicable after the sample was taken.
- (3) In relation to proceedings in respect of effluent passing from a public sewer or other outfall belonging to the sewerage authority into any water, this section shall have effect as if the references to the occupier of the land were to the sewerage authority.⁵⁰

14 International obligations

[P1989/15/171]

The Department of Environment, Food and Agriculture may by order provide that the provisions of this Part shall have effect with such modifications as may be specified in the order for the purpose of giving effect to —

- (a) any EU obligation;⁵¹
- (b) any international agreement to which the United Kingdom is a party and which extends to the Island.⁵²

15 Interpretation of Part 1

(1) In this Part —

“**agriculture**” and “**agricultural**” have the same meanings as in the *Agricultural Holdings Act 1969*;

“**the Agriculture Department**” [Repealed]⁵³

“**analyse**”, in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description;

“**coastal waters**”, “**controlled waters**”, “**ground waters**”, “**inland waters**” and “**relevant territorial waters**” have the meanings given by section 1;

“**contravention**” includes a failure to comply, and cognate expressions shall be construed accordingly;

“**drain**”, “**owner**” and “**sewer**” have the meanings given by section 73 of the *Local Government Act 1985*;

“**effluent**” means any liquid, including particles of matter and other substances in suspension in the liquid;

“**the Environment Department**” [Repealed]⁵⁴

“**licence**” means a licence under section 5;

“**notice**” means a notice in writing;

“**prescribed**” means prescribed by regulations made by the Department of Environment, Food and Agriculture;

“**public sewer**” means a sewer vested in the sewerage authority by virtue of section 15 of the *Sewerage Act 1999*;⁵⁵

“**sewage effluent**” includes any effluent from the sewage disposal or treatment works or sewerage works of the sewerage authority, but does not include surface water or water from roofs;⁵⁶

“**sewerage authority**” means the Manx Utilities Authority;⁵⁷

“**trade effluent**” includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and

domestic sewage; and for the purposes of this definition any premises wholly or mainly used (whether for profit or not) —

- (a) for agricultural purposes,
- (b) for the purposes of fish farming, or
- (c) for scientific research or experiment,

shall be treated as premises used for carrying on a trade;

“**underground strata**” means strata subjacent to the surface of any land;

“**the Water Authority**” [Repealed]⁵⁸

“**watercourse**” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except mains, pipes, culverts and tunnels which belong to the Manx Utilities Authority or are used by that Authority or any other person for the purposes only of providing a supply of water to any premises.⁵⁹

- (2) In this Part —
 - (a) a reference to the waters of a lake or pond or of any river or watercourse includes the bottom, channel or bed of a lake, pond, river or watercourse which is for the time being dry;
 - (b) any reference to water contained in underground strata is to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in such strata.
- (3) The Environment Department may make regulations for prescribing anything which is required by this Part to be prescribed.

16 Repeals

The enactments specified in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.

PART 2 – DEPOSITS IN THE SEA

17 Prohibition of deposits etc at sea

[P1985/48/5 and 6; P1990/43/146]

- (1) Subject to the following provisions of this Part, no person shall cause or permit —
 - (a) the deposit of any substance or article within Manx waters, either in the sea or under the sea-bed —
 - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure;
 - (ii) from a container floating in the sea;

- (iii) from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;
 - (b) the deposit of any substance or article anywhere in the sea or under the sea-bed —
 - (i) from a Manx vessel, Manx hovercraft or Manx marine structure;
 - (ii) from a container floating in the sea, if the deposit is controlled from a Manx vessel, Manx hovercraft or Manx marine structure;
 - (c) the scuttling of a vessel —
 - (i) in Manx waters; or
 - (ii) anywhere at sea, if the scuttling is controlled from a Manx vessel, Manx hovercraft or Manx marine structure;
 - (d) the loading of a vessel, aircraft, hovercraft, marine structure or floating container in the Island or Manx waters with substances or articles for deposit anywhere in the sea or under the sea-bed;
 - (e) the loading of a vehicle in the Island with substances or articles for deposit from that vehicle as mentioned in paragraph (a); or
 - (f) the towing or propelling from the Island or Manx waters of a vessel for scuttling anywhere at sea.
- (2) Subject to the following provisions of this Part, no person shall cause or permit —
- (a) the incineration of substances or articles on a vessel or marine structure —
 - (i) in Manx waters; or
 - (ii) anywhere at sea, if the incineration takes place on a Manx vessel or Manx marine structure; and
 - (b) the loading of a vessel or marine structure in the Island or Manx waters with substances or articles for incineration anywhere at sea.
- (3) Subject to section 18, a person who contravenes subsection (1) or (2) is guilty of an offence and liable —
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £50,000, or to both;
 - (b) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine, or to both;

18 Authority for deposits etc

[P1985/48/7 and 9]

- (1) A person is not guilty of an offence under section 17(3) if the operations in question are carried under and in accordance with, or as a result of

- any act or omission under and in accordance with, a licence issued by the Department of Infrastructure under section 19.⁶⁰
- (2) A person is not guilty of an offence under section 17(3) if the operations in question —
- (a) are specified in an order made by the Department of Infrastructure as operations not needing a licence, or⁶¹
 - (b) comply with conditions specified in an order made by the Department of Infrastructure.⁶²
- (3) The conditions that an order under subsection (2)(b) may specify include conditions enabling the Department of Infrastructure to require a person to obtain its consent before he does anything which would be an offence under section 17(3) but for the order.⁶³
- (4) A consent under subsection (3) may be without conditions or subject to such conditions as the Department of Infrastructure considers appropriate.⁶⁴
- (5) A person is not guilty of an offence under section 17(3) if —
- (a) 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) he took steps within a reasonable time to inform the Department of Infrastructure —
 - (i) of the operation;
 - (ii) of the locality and circumstances in which it took place; and
 - (iii) of any substances or article concerned.⁶⁵
- (6) Subsection (5) does not apply if the court is satisfied —
- (a) that the operation —
 - (i) was not necessary for any purpose mentioned in subsection (5)(a), and
 - (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.
- (7) A person is not guilty of an offence under section 17(3) in relation to any operation within section 17(1)(b) or (c)(ii) or section 17(2)(a)(ii), and which was carried out outside Manx waters —
- (a) in respect of an operation within section 17(1)(b), if the vessel, hovercraft, marine structure or container, as the case may be, was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles deposited;

- (b) in respect of an operation within section 17(1)(c)(ii), if the vessel scuttled was towed or propelled from a Convention State or the national or territorial waters of a Convention State to the place where the scuttling was carried out;
- (c) in respect of an operation within section 17(2)(a)(ii), if the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles incinerated;
- (d) in respect of any operation, if the operation took place in pursuance of a licence issued by the responsible authority in the Convention State concerned and in accordance with its provisions.

18A Application of Part 2: further provisions

Nothing in this Part shall apply to anything done —

- (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 an Act of Parliament as it has effect in the Island) is in force; or
- (b) for the purpose of establishing or maintaining an offshore installation within the meaning of Part IV of that Act.⁶⁶

19 Licences for deposits etc

[P1985/48/8(1)-(6)]

- (1) An application for a licence for any operation within section 17(1) or (2) shall be made in writing and shall be accompanied by all such information as the Department of Infrastructure may reasonably require.⁶⁷
- (2) Before determining whether to issue a licence the Department of Infrastructure shall consult the Department of Environment, Food and Agriculture, and in so determining the Department of Infrastructure —
 - (a) shall have regard to the need —
 - (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 Department of Infrastructure considers relevant.⁶⁸
- (3) Without prejudice to the generality of subsection (2), where it appears to the Department of Infrastructure 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 Department of Infrastructure, in

- determining whether to issue the licence, shall have regard to the practical availability of any alternative methods of dealing with them.⁶⁹
- (4) Schedule 1 has effect to confer on the applicant for a licence the right to make representations to the Department of Infrastructure with respect to the determination of the application.⁷⁰
- (5) The Department of Infrastructure may require an applicant for a licence to supply such information and permit such examinations and tests as in its opinion may be necessary or expedient to enable it to decide —
- (a) whether a licence should be issued to the applicant, and
 - (b) the conditions which any such licence issued to him ought to include.⁷¹
- (6) The Department of Infrastructure —
- (a) shall include such conditions in a licence as appear to it 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 conditions as the Department of Infrastructure considers appropriate.⁷²
- (7) Without prejudice to the generality of subsection (6), a licence may include conditions requiring —
- (a) that no operation authorised by the licence shall be carried out until the Department of Infrastructure has given such further consent to or approval of the operation as the licence may specify;⁷³
 - (b) 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 Department of Infrastructure may specify; and⁷⁴
 - (c) where the licence only authorises operations mentioned in section 17(1)(d) or (f) or section 17(2)(b), that any operation of deposit, scuttling or incineration mentioned in it shall take place at a specified site, whether in Manx waters or not.
- (8) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (7)(b), any record produced by means of the equipment shall, in any proceedings under this Part, be evidence of the matters appearing from the record.
- (9) Any person who knowingly contravenes the conditions of a licence is guilty of an offence and liable —
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £50,000, or to both;

- (b) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine, or to both;

and section 18(5) to (7) applies to an offence under this subsection as it applies to an offence under section 17(3).

19A Reference of applications to the Cabinet Office

- (1) An application by the Department of Infrastructure for a licence under section 19 must be referred to the Cabinet Office.
- (2) In relation to an application to which subsection (1) applies and a licence issued to the Department of Infrastructure as a result of such an application —
 - (a) references in this Part and in Schedule 1 —
 - (i) to the Department of Infrastructure are to be construed as references to the Cabinet Office; and
 - (ii) to an applicant or the holder of a licence are to be construed as references to the Department of Infrastructure; and
 - (b) references in Schedule 2 to an authorised person are to be construed as references to a person authorised by the Cabinet Office under section 23 to enforce Part 2.⁷⁵

20 Variation or revocation of licences

[P1985/48/8(10)-(12)]

- (1) The Department of Infrastructure may vary or revoke a licence if it appears to it that there has been a breach of any of its conditions.⁷⁶
- (2) The Department of Infrastructure may vary or revoke a licence if it appears to that Department that it 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 Department of Infrastructure to be relevant.⁷⁷
- (3) Schedule 1 has effect to confer on the holder of a licence the right to make representations to the Department of Infrastructure with respect to any variation or revocation of the licence made without his consent.⁷⁸

21 Fees

[P1985/48/8(8)]

Without prejudice to the *Fees and Duties Act 1989*, the Department of Infrastructure may require an applicant for a licence to pay a reasonable fee towards the expense —

- (a) of carrying out any examinations and tests which in its opinion are necessary or expedient to enable it to decide —
 - (i) whether a licence should be issued to the applicant, and
 - (ii) the conditions which any such licence 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.⁷⁹

22 Remedial action

[P1985/48/10]

- (1) The Department of Infrastructure may carry out any operation which appears to it to be necessary or expedient for the purpose of —
 - (a) protecting the marine environment, the living resources which it supports or human health; or
 - (b) preventing interference with legitimate uses 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.⁸⁰
- (2) If the Department of Infrastructure carries out an operation under subsection (1), it may recover any expenses reasonably incurred by it 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 Department of Infrastructure to be necessary or expedient to carry out the operation.⁸¹

23 Enforcement of Part 2

[P1985/48/11]

- (1) The Department of Infrastructure may authorise any person, subject to such limitations as may be specified in the instrument authorising him, to enforce this Part.⁸²
- (2) Subject to any such limitations, an authorised person may enter —
 - (a) land and vehicles in the Island;
 - (b) foreign vessels, foreign aircraft, foreign hovercraft and foreign marine structures in the Island or within Manx waters;

- (c) Manx vessels, Manx hovercraft or Manx marine structures, wherever they may be,

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 —
- (a) any vessel within Manx waters; and
 - (b) any Manx vessel wherever it may be,
- if it appears to him that it is intended to be scuttled.
- (4) Schedule 2 has effect with respect to authorised persons.

24 Testing

[P1985/48/13]

- (1) At the request of any person the Department of Infrastructure 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.⁸³
- (2) If the Department of Infrastructure conducts any tests under this section, it may recover any expenses reasonably incurred by it in conducting them from any person at whose request they were conducted.⁸⁴

25 Enforcement of Conventions

[P1990/48/12]

- (1) The Department of Infrastructure, with the consent of the Secretary of State, may by order —
- (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 the Government of the United Kingdom and the government of any Convention State so specified; and
 - (b) specify any powers conferred by this Part for the purpose of enforcing this Part as a power that may be exercised, by such persons in such circumstances and subject to such conditions as may be specified, for the purpose of enforcing that procedure.⁸⁵
- (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 23 would have in relation to the exercise of any powers for the purpose of enforcing this Part.

26 Interpretation of Part 2

(1) In this Part —

“**Convention State**” means a state which is a party to the London Convention or the Oslo Convention;

“**incineration**” means any combustion of substances and materials for the purpose of their thermal destruction;

“**licence**” means a licence under section 19;

“**the London Convention**” means the Convention on the prevention of maritime pollution by dumping of wastes and other matter, concluded at London in December 1972;

“**Manx waters**” means any part of the sea within the seaward limits of the territorial waters adjacent to the Island;

“**Manx hovercraft**” means a hovercraft, other than a hovercraft registered in the United Kingdom, owned or operated by an individual resident in, or a body incorporated under the law of, the Island;

“**Manx marine structure**” means a marine structure owned by or leased to an individual resident in, or a body incorporated under the law of, the Island;

“**Manx vessel**” means a vessel registered in the Island under any statutory provision;

“**the Marine Department**” [Repealed]⁸⁶

“**marine structure**” means a platform or other man-made structure at sea, other than a pipeline, and includes a pier or breakwater;

“**the Oslo Convention**” means the Convention for the prevention of marine pollution by dumping from ships and aircraft, concluded at Oslo in February 1972;

“**sea**” includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river,

“**vessel**” includes any ship or boat, or any other vessel used in navigation.

(2) Any reference in this Part to the London Convention or the Oslo Convention is a reference to it as it has effect from time to time.

27 Transitional provisions

(1) Section 16(2) and (3) (effect of substituting provisions) of the *Interpretation Act 1976* applies to this Act in relation to Parts II and IV of the Food and Environment Protection Act 1985 (an Act of Parliament), as extended to the Island, as if —

(a) those Parts were repealed by this Act, and

- (b) this Part, and any relevant provisions of Part 3, were an enactment substituted for those Parts by way of amendment, revision or consolidation.
- (2) In Schedule 3 to the Submarine Pipe-lines (Application) Order 1991 (modifications of Petroleum and Submarine Pipe-lines Act 1975), in the entry relating to section 45 there is inserted —
- “In subsection (3), for “Part II of the Food and Environment Protection Act 1985” substitute “Part 2 of the *Water Pollution Act 1993* (an Act of Tynwald)”.”.

PART 3 – SUPPLEMENTAL

28 Disclosure of information

[P1989/15/174]

- (1) Subject to the following provisions of this section, no information with respect to any particular business which has been obtained by virtue of any of the provisions of this Act and relates to the affairs of any individual or to any particular business shall, so long as that business continues to be carried on, be disclosed without the consent of the person for the time being carrying on that business.
- (2) Subsection (1) does not apply to any disclosure of information which is made —
- (a) for the purpose of facilitating the carrying out by a Department of any of its functions under this Act;
- (b) for the purpose of facilitating the performance by the sewerage authority of any of the duties imposed on it by Part 1;⁸⁷
- (c) for the purpose of facilitating the carrying out by any Department or Statutory Board or of any inspector or other officer of any of its or his functions under any enactment relating to the public health, the protection of consumers of goods or services, health and safety at work, companies, financial services, insurance or insolvency;
- (d) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
- (e) for the purposes of any civil proceedings brought under or by virtue of this Act or any enactment referred to in paragraph (c); or
- (f) in pursuance of an EU obligation.⁸⁸
- (3) Any person who discloses any information in contravention of subsection (1) is guilty of an offence and liable —
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or both;

- (b) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine or both.

29 Making false statements

[P1989/15/175]

Any person who, in furnishing any information or making any application under or for the purposes of this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and liable —

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or both;
- (b) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine or both.

30 Offences: general

[P1985/48/21 and 22; P1989/15/121 and 122]

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate or any 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) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first-mentioned person.
- (4) Notwithstanding section 75 of the *Summary Jurisdiction Act 1989* (time limit for summary proceedings), a court of summary jurisdiction may try any summary offence under this Act if the complaint is laid not more than 12 months after the commission of the offence.
- (5) Except in so far as this Act otherwise provides, and subject to section 3 of the *Criminal Law Act 1981* (offences under 2 or more laws), nothing in this Act —
 - (a) confers a right of action in any civil proceedings (other than for the recovery of a fine) in respect of any contravention of this Part;

- (b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act;
 - (c) affects any restriction imposed by or under any other statutory provision.
- (6) Any reference in this Act to a contravention of this Act or a provision of this Act includes a contravention of any public document made under this Act or that provision, including the conditions of any licence or consent given under this Act or that provision.
- (7) Proceedings for any offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in the Island.

31 Defence of due diligence

[P1985/48/22]

- (1) In any proceedings for an offence under this Act it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) Without prejudice to the generality of subsection (1), a person is to be taken to have established the defence provided by that subsection if he proves —
- (a) that he acted under instructions given to him by his employer; or
 - (b) that he acted in reliance on information supplied by another person without any reason to suppose that the information was false or misleading;

and in either case that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

- (3) If in any case the defence provided by subsection (1) involves an allegation that the commission of the offence was due to an act or omission by another person, other than the giving of instructions to the person charged with the offence by his employer, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

32 Registers

[P1985/48/14; P1989/15/117; P1990/43/147]

- (1) The relevant Department shall maintain registers containing particulars of —

- (a) any schemes prescribing or establishing water quality objectives under section 2(1)(a) or (b);
 - (b) applications for licences or consents under this Act;
 - (c) licences and consents issued or given under this Act, and the conditions to which such licences or consents are subject;
 - (d) variations and revocations of such licences and consents;
 - (e) convictions for any offences under Part 1 or Part 2;
 - (f) samples of water or effluent taken for the purposes of Part 1 by the Department and information produced by analysis of those samples;
 - (g) such information with respect to samples of water or effluent taken by any other person and the analysis of those samples as is acquired by the Department from any person under arrangements made by the Department for the purposes of Part 1;
 - (h) the steps taken in consequence of any such information as is mentioned in paragraph (f) or (g);
 - (i) such other matters relating to operations for which a licence or consent is required under this Act as the relevant Department thinks fit.
- (2) No information shall be included in any register which in the opinion of the relevant Department 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) Where information is excluded from a register under subsection (2)(b) —
- (a) a statement shall be entered in the register indicating the existence of information so excluded; and
 - (b) it shall cease to be excluded at the expiry of 4 years beginning with the date on which the relevant Department made its decision under that subsection unless, on an application made by a person interested in the information before the expiry of that period (or of a further period allowed under this paragraph), the Department determines, on the ground referred to in subsection (2)(b), that the information shall continue to be so excluded for such further period as may be specified in the determination.
- (4) The relevant Department shall permit any person to inspect any register maintained under this section at its offices free of charge at any reasonable time, and to obtain a copy of any entry in such a register on payment of such reasonable charge (if any) as the Department may determine.
- (5) In this section “the relevant Department” means —

- (a) in relation to a register of matters under Part 1, the Department of Environment, Food and Agriculture;⁸⁹
- (b) in relation to a register of matters under Part 2, the Department of Infrastructure.⁹⁰
- (c) in relation to matters to which section 19A (reference of applications to the Cabinet Office) applies, the Cabinet Office.⁹¹

33 Orders and regulations

Orders and regulations under this Act (except an order under section 34(2)) shall not have effect unless they are approved by Tynwald.

34 Short title and commencement

- (1) This Act may be cited as the Water Pollution Act 1993.
- (2) This Act shall come into operation on such day as the Department of Transport and the Department of Local Government and the Environment may jointly by order appoint.⁹²

SCHEDULE 1

RIGHT TO MAKE REPRESENTATIONS

Sections 5(4), 6(6), and 19(4) and 20(3)

Interpretation

1. In this Schedule —

“**the appointed person**” means the person appointed under paragraph 4(1);

“**the Department**” means the Department of Infrastructure or the Department of Environment, Food and Agriculture, as the case may be.⁹³

Notification of reasons for conditions

2. (1) If within 28 days of the issue of a licence the person to whom it is granted requests the Department to give him notice in writing of the reasons for inclusion of any condition in it, the Department shall comply with his request within 28 days of receiving it.

(2) On granting a licence to a person the Department shall notify him of the effect of this paragraph.

Notification of reasons for refusal etc

3. If the Department —

(a) refuses an application for a licence, or

(b) varies or revokes a licence without the holder’s consent,

it shall give the applicant or holder notice in writing of its reasons for the refusal, variation or revocation.

Appointment of person to consider representations

4. (1) If, within 28 days of receipt of a notice under paragraph 2(1) or 3, the person to whom it is given makes written representations to the Department concerning the matter to which the notice relates, the Department shall appoint a person to consider his representations.

(2) A notice under paragraph 2(1) or 3 shall state the effect of this paragraph.

Consideration by appointed person

5. (1) The appointed person shall —

(a) serve on the person who made the representations a notice requiring him to state within 14 days of receipt of the notice

whether he wishes to make oral representations to the appointed person; and

- (b) to serve on him not earlier than the date of the notice under (a), notice of the place, date and time at which he may attend to make such oral representations.

(2) A notice under this paragraph shall not specify a date when he may attend which is earlier than 21 days from the date of the notice, unless the person who made the representations has agreed to an earlier date.

(3) If he expresses a wish to make oral representations, the appointed person shall afford him an opportunity of doing so, either in person or by any person authorised by him in that behalf.

Report to Department

6. (1) The appointed person shall consider —
- (a) the reasons given by the Department under this Schedule; and
- (b) any representations made under this Schedule,

and shall make a report to the Department after the close of his consideration, giving his findings of fact and his recommendations, and the Department shall reconsider the decision to which the representations relate in the light of his report.

(2) The Department shall notify the person who made the representations of the result of its reconsideration and the reasons for it, and shall send him a copy of the appointed person's report.

Costs

7. (1) Subject to sub-paragraph (2), the Department may pay to a person who makes representations under this Schedule such sum as it considers appropriate in respect of costs or expenses incurred by that person in connection with the making of the representations and of attending before the appointed person.

(2) No payment shall be made in a case where the result of the reconsideration is that the Department confirms the original decision without modification.

Supplemental

8. (1) The Department may make arrangements for securing that such of the Department's officers as it considers are required are available to assist an appointed person.

(2) The Department may pay such fees and allowances for an appointed person as it may, with the consent of the Treasury, determine.

SCHEDULE 2

AUTHORISED PERSONS AND THEIR POWERS

Sections 12(4) and 23(4)

Interpretation

1. (1) In this Schedule —
“**authorised person**” means a person authorised by a Department under section 12 or 23 to enforce Part 1 or Part 2, as the case may be;
“**master**”, in relation to a vessel, includes the person for the time being in charge of the vessel.
(2) In relation to the exercise of functions under this Schedule for the purposes of Part 2, references to a vessel (except in paragraph 6(3)(b)) include references to an aircraft, hovercraft or marine structure (within the meaning of Part 2), and for this purpose references to the master are —
 - (a) in relation to a hovercraft, to the person who is designated by the operator to be in charge of it during any journey or, failing such designation, the person who is for the time being lawfully in charge of it;
 - (b) in relation to an aircraft, to the member of the flight crew designated as commander of the aircraft by the operator or, failing such designation, the person who is for the time being the pilot in command of the aircraft;
 - (c) in relation to a marine structure, to the person for the time being in charge of the structure.

Assistance for authorised persons

2. (1) An authorised person may take with him, to assist him in performing his functions, any other person and any equipment or materials.
(2) A person whom an authorised person takes with him to assist him may perform any of the authorised person’s functions, but only under the authorised person’s supervision.

Exercise of powers of entry

3. (1) An authorised person shall not exercise any power to enter any premises or vessel conferred by this Act except —
 - (a) by authority of a warrant under paragraph 4; or
 - (b) in an emergency; or
 - (c) at a reasonable time and —

- (i) if the premises are, or the vessel is, used for residential purposes, or
- (ii) in the case of premises, the entry is to be with heavy equipment,

after 7 days' notice of the intended entry has been given to the occupier of the premises or vessel.

(2) A authorised person exercising such a power shall leave the premises or vessel as effectually secured against trespassers as he found them or it.

Warrants

4. (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing —

- (a) that there are reasonable grounds for the exercise of any power to enter any premises or vessel conferred by this Act, and
- (b) that one of the following conditions is satisfied —
 - (i) that the exercise of the power in relation to the premises or vessel has been refused;
 - (ii) that such a refusal is reasonably apprehended;
 - (iii) that the premises are, or the vessel is, unoccupied;
 - (iv) that the occupier is temporarily absent from the premises or vessel;
 - (v) that the case is one of urgency; or
 - (vi) that an application for admission would defeat the object of the proposed entry;

the justice may by warrant authorise the person concerned to exercise the power in relation to those premises or that vessel in accordance with the warrant and, if need be, by force.

(2) A justice shall not issue a warrant under this paragraph by virtue only of sub-paragraph (1)(b)(i) or (ii) unless he is also satisfied either —

- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises or vessel, or
- (b) that the giving of such notice would defeat the object of the proposed entry.

(3) A warrant under this paragraph shall continue in force until the purposes for which it was issued have been fulfilled.

Compensation

5. Where any person sustains any loss or damage (not being loss or damage which is attributable to the default of that person) by reason of the exercise of any power

conferred by section 12 or 23, or the failure by any person exercising such a power to comply with paragraph 3, the Department by whom he was authorised to act shall make full compensation to him, such compensation to be settled, in default of agreement, by arbitration.

Powers in relation to vessels, aircraft etc

6. (1) In order to perform his functions an authorised person may require any person —
- (a) to give details of any substances or articles on any premises or on board any vessel; and
 - (b) to give information concerning any substances or articles lost from a vessel.
- (2) In order to perform any such functions an authorised person —
- (a) may require any vessel to stop; and
 - (b) may require the attendance of —
 - (i) any person who is on the premises, or
 - (ii) the master of, and any person on board, the vessel;

and may require any person on the premises or on board the vessel to assist him in the performance of his functions.

- (3) In order to perform his functions an authorised person —
- (a) may require the master of a vessel to take it and its crew to the port which appears to the authorised person to be the nearest convenient port; or
 - (b) may take the vessel there himself.
- (4) In order to perform any such functions an authorised person may detain a vessel.
- (5) If an authorised person detains a vessel, he shall serve on the master a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an authorised person.

Containers etc

7. Without prejudice to his powers under any other provision of this Act, in order to perform his functions an authorised person —
- (a) may open any container;
 - (b) may carry out searches, inspections, measurements and tests;
 - (c) may take samples;
 - (d) may require the production of documents, books and records; and
 - (e) may photograph or copy anything whose production he has power to require under (d) above.

Evidence of authorised persons' authority

8. (1) An authorised person shall be furnished with a certificate of his authorisation, and when he proposes to perform any function under this Act, he shall, if requested, produce that certificate.

(2) An authorised person shall also, if so requested, state his name, the function that he proposes to perform, and his grounds for proposing to perform it.

Time of performance of functions

9. Without prejudice to paragraph 3(1)(c), an authorised person must perform his functions under this Act at a reasonable hour unless it appears to him that there are grounds for suspecting that the purpose of their performance may be frustrated if he seeks to perform them at a reasonable hour.

Power to use force

10. An authorised person may use reasonable force, if necessary, in the performance of his functions under this Act.

Protection of authorised persons

11. An authorised person shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Offences

12. Any person who —

- (a) intentionally obstructs an authorised person in the performance of any of his functions under this Act;
- (b) fails without reasonable excuse to comply with a requirement made or direction given by an authorised person in the performance of any of his functions under this Act;
- (c) in purporting to give information required by an authorised person for the performance of any of his functions under this Act —
 - (i) makes a statement which he knows to be false in a material particular;
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (iii) intentionally fails to disclose any material particular;

is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

SCHEDULE 3

ENACTMENTS REPEALED

Section 16

[Repeals the following Act wholly —

Marine Pollution Act 1983

and the following Acts in part —

Local Government Consolidation Act 1916

Inland Fisheries Act 1976

Statute Law Revision Act 1989]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (2) amended by SD155/10 Sch 3.

² Subs (4) amended by SD155/10 Sch 3.

³ Subs (1) amended by SD155/10 Sch 3.

⁴ Subs (4) amended by SD155/10 Sch 3.

⁵ Para (b) amended by SD0606/12.

⁶ Subs (6) amended by SD155/10 Sch 3.

⁷ Para (a) amended by SD155/10 Sch 3.

⁸ Para (b) amended by SD155/10 Sch 3.

⁹ Subs (4) amended by SD155/10 Sch 3.

¹⁰ Para (a) amended by SD155/10 Sch 3.

¹¹ Subs (6) amended by SD155/10 Sch 9.

¹² Para (c) amended by SD155/10 Sch 3.

¹³ Subs (7) amended by SD155/10 Sch 9.

¹⁴ Subs (8) amended by SD155/10 Sch 9.

¹⁵ Subs (1) amended by SD155/10 Sch 3.

¹⁶ Subs (2) amended by SD155/10 Sch 3.

¹⁷ Para (b) substituted by Sewerage Act 1999 Sch 4 and amended by SD155/10 Schs 3, 9 and 11 and by SD2014/06.

¹⁸ Subs (3) amended by SD155/10 Sch 3.

¹⁹ Subs (4) amended by SD155/10 Sch 3.

²⁰ Subs (5) amended by SD155/10 Sch 3.

²¹ Para (b) amended by SD155/10 Sch 3.

²² Para (g) amended by SD155/10 Sch 3.

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- ²³ Subs (1) amended by SD155/10 Sch 3.
- ²⁴ Subs (2) amended by SD155/10 Sch 3.
- ²⁵ Subs (3) amended by SD155/10 Sch 3.
- ²⁶ Subs (5) amended by SD155/10 Sch 3.
- ²⁷ Subs (6) amended by SD155/10 Sch 3.
- ²⁸ Para (b) amended by SD155/10 Sch 3.
- ²⁹ Subs (1) amended by SD155/10 Sch 3.
- ³⁰ Subs (2) amended by SD155/10 Sch 3.
- ³¹ Subs (3) amended by SD155/10 Sch 3.
- ³² Subs (1) amended by SD155/10 Sch 3.
- ³³ Subs (1) amended by SD155/10 Schs 3 and 11.
- ³⁴ Para (a) amended by SD155/10 Sch 3.
- ³⁵ Para (b) amended by SD155/10 Sch 3.
- ³⁶ Para (d) amended by SD155/10 Sch 3.
- ³⁷ Para (b) substituted by SD155/10 Schs 3 and 11 and amended by SD2014/06.
- ³⁸ Subs (3) amended by SD155/10 Sch 3.
- ³⁹ Subs (4) amended by SD155/10 Sch 3.
- ⁴⁰ Subs (1) amended by SD155/10 Sch 3.
- ⁴¹ Subs (2) amended by SD155/10 Sch 3.
- ⁴² Para (a) amended by SD155/10 Sch 3.
- ⁴³ Subs (3) amended by SD155/10 Sch 3.
- ⁴⁴ Subs (1) amended by SD155/10 Schs 3 and 11.
- ⁴⁵ Subs (2) amended by SD155/10 Sch 3. Para (b) amended by SD155/10 Sch 3.
- ⁴⁶ Subs (1) amended by SD155/10 Sch 3.
- ⁴⁷ Subpara (ii) amended by SD155/10 Sch 3.
- ⁴⁸ Para (b) amended by SD155/10 Sch 3.
- ⁴⁹ Subs (1) amended by SD155/10 Sch 3.
- ⁵⁰ Subs (3) amended by SD155/10 Sch 9.
- ⁵¹ Para (a) amended by SD0606/12.
- ⁵² S 14 amended by SD155/10 Sch 3.
- ⁵³ Definition of “the Agriculture Department” repealed by SD155/10 Schs 3 and 11.
- ⁵⁴ Definition of “the Environment Department” repealed by SD155/10 Sch 3.
- ⁵⁵ Definition of “public sewer” amended by Sewerage Act 1999 Sch 4 and amended by SD155/10 Sch 9.
- ⁵⁶ Definition of “sewage effluent” amended by SD155/10 Sch 9.
- ⁵⁷ Definition of “sewerage authority” amended by Sewerage Act 1999 Schs 5 and 9 and by SD2014/06.
- ⁵⁸ Definition of “the Water authority” repealed by SD155/10 Sch 9.
- ⁵⁹ Definition of “watercourse” amended by SD155/10 Sch 9 and by SD2014/06.
- ⁶⁰ Subs (1) amended by SD155/10 Sch 5.
- ⁶¹ Para (a) amended by SD155/10 Sch 5.
- ⁶² Para (b) amended by SD155/10 Sch 5.

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- ⁶³ Subs (3) amended by SD155/10 Sch 5.
- ⁶⁴ Subs (4) amended by SD155/10 Sch 5.
- ⁶⁵ Para (b) amended by SD155/10 Sch 5.
- ⁶⁶ S 18A inserted by SD562/00.
- ⁶⁷ Subs (1) amended by SD155/10 Sch 5.
- ⁶⁸ Subs (2) amended by SD155/10 Schs 3 and 5. Para (b) amended by SD155/10 Sch 5.
- ⁶⁹ Subs (3) amended by SD155/10 Sch 5.
- ⁷⁰ Subs (4) amended by SD155/10 Sch 5.
- ⁷¹ Subs (5) amended by SD155/10 Sch 5.
- ⁷² Subs (6) amended by SD155/10 Sch 5. Para (b) amended by SD155/10 Sch 5.
- ⁷³ Para (a) amended by SD155/10 Sch 5.
- ⁷⁴ Para (b) amended by SD155/10 Sch 5.
- ⁷⁵ S 19A inserted by SD2017/0030.
- ⁷⁶ Subs (1) amended by SD155/10 Sch 5.
- ⁷⁷ Subs (2) amended by SD155/10 Sch 5. Para (c) amended by SD155/10 Sch 5.
- ⁷⁸ Subs (3) amended by SD155/10 Sch 5.
- ⁷⁹ S 21 amended by SD155/10 Sch 5.
- ⁸⁰ Subs (1) amended by SD155/10 Sch 5.
- ⁸¹ Subs (2) amended by SD155/10 Sch 5.
- ⁸² Subs (1) amended by SD155/10 Sch 5.
- ⁸³ Subs (1) amended by SD155/10 Sch 5.
- ⁸⁴ Subs (2) amended by SD155/10 Sch 5.
- ⁸⁵ Subs (1) amended by SD155/10 Sch 5.
- ⁸⁶ Definition of “the Marine Department” repealed by SD155/10 Sch 5.
- ⁸⁷ Para (b) amended by SD155/10 Sch 9.
- ⁸⁸ Para (f) amended by SD0606/12.
- ⁸⁹ Para (a) amended by SD155/10 Sch 3.
- ⁹⁰ Para (b) amended by SD155/10 Sch 5.
- ⁹¹ Para (c) inserted by SD2017/0030.
- ⁹² Subs (2) amended by SD486/94.
- ADO (Part 2; Part 3 and Schs 1 and 2 in so far as they relate to Part 2) 1/1/1995 (SD407/94); (ss 1, 2, 7 to 9, 10 (except subs (2)), 11 (except subs (2)(a)), 12, 13, 15, Part 3 and Sch 2 in so far as they relate to the aforementioned ss of Part 1) 1/1/1997 (SD682/96); (ss 3 to 6, 10(2), 11(2)(a), 14, 16, Schs 1 and 2 (in so far as they relate to ss 3 to 6, 10(2), 11(2)(a), 14 and 16), and Sch 3) 1/2/2005 (SD870/04).
- ⁹³ Definition of “the Department” amended by SD486/94 and by SD155/10 Schs 3 and 5.