

DUTIES AND POWERS OF
THE
ENVIRONMENT AGENCY

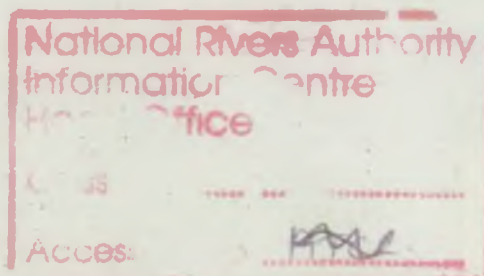
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INTRODUCTION

This document provides a summary of the duties and powers of the Environment Agency. It covers new areas of work introduced by the Environment Act 1995, amendments to existing legislation by that Act and a continuation of current legislation. The document also tries to cover some work which derives from international jurisdictions - EC and international treaties. The document does not include secondary legislation but references to certain statutory instruments are noted in particular places where appropriate.

The next section shows a table of 'functions' derived from the original legal partners to the Environment Agency; this document groups the legislation into these 'functions', so that each organisation can see the derivation of their existing function.

Please note that the legislation for the NRA's navigation function is primarily to be found in local legislation. A separate document is available, in a similar format, identifying the navigation function's relevant duties and powers.

Any comments or additions would be welcomed and should be sent, along with any requests for the navigation function duties and powers, to:

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TABLE OF DERIVATION OF FUNCTIONS TO THE ENVIRONMENT AGENCY:

1. NEW FUNCTIONS

2. NRA:

FUNCTION	LEGAL SOURCE OF FUNCTION
Water Resources Management	Part II Water Resources Act 1991
Control of Pollution	Part III Water Resources Act 1991
Flood Defence (land drainage) (land drainage) (land and works powers)	Part IV Water Resources Act 1991 Section 136(8), para 1(3) of Schedule 15 Water Act 1989. Land Drainage Act 1991. Part VII Water Resources Act 1991.
Fisheries	Salmon and Freshwater Fisheries Act 1975. Part V Water Resources Act 1991. Diseases of Fish Act 1937/Sea Fisheries Regulation Act 1966.
Navigation, etc	Chapter V Part III; para 23(3), Schedule 13 Water Act 1989. Schedule 2 Water Resources Act 1991.
Recreation	Section 16(4) Water Resources Act 1991.
Conservation	Section 2(2) and 16 Water Resources Act 1991.
3. CHIEF INSPECTOR/ INSPECTORS	
Integrated Pollution Control	Part I Environmental Protection Act 1990
Radioactivity	Radioactive Substances Act 1993
Air Pollution	Alkali &c. Works Regulation Act 1906 Health & Safety at Work Act 1974
4. WASTE REGULATION AUTHORITIES	
Carriage of Waste	Control of Pollution (Amendment) Act 1989
Controlled Waste	Part II Environmental Protection Act 1990
Waste Disposal	Control of Pollution Act 1974

5. SECRETARY OF STATE	
Disposal of Radioactive Waste	Section 30(1) Radioactive Substances Act 1993
Trade Effluent Consents	Chapter III, Part IV Water Industry Act 1991
Air Pollution	Section 5, Part 1 Health & Safety at Work Act 1974
Registration of Works	Section 9 Alkali Etc Works Regulation Act 1906
Sludge to soil	Regulations 7(1), 8(2) and para 2(2)(c), Schedule 2 Sludge (Use in Agriculture) Regulations 1989

6. FUNCTIONS DERIVED FROM THE EC

7. FUNCTIONS DERIVED FROM INTERNATIONAL OBLIGATIONS

SECTION 1: DUTIES AND POWERS OF THE ENVIRONMENT AGENCY UNDER THE ENVIRONMENT ACT 1995

SECTION	PROVISION	DUTY/POWER
1	Establishment of the Agency	-
2	Transfer of functions of NRA, waste regulation authorities, HMIP & certain functions of S/S to the Agency (see table of derivation for summary); NRA & LWRA abolished.	-
3	Transfer to the Agency of the property, rights & liabilities of NRA & LWRA; S/S may make Scheme for the transfer of such property, rights & liabilities of his or of HMIP as appropriate; WRAs to make scheme providing for similar transfers.	-
4	Principal aim of Agency in discharging its functions to protect or enhance the environment, taken as a whole, as to make contribution towards attaining the objective of achieving sustainable development; Agency to have regard to guidance given by the Ministers with respect to sustainable development and other objectives.	D
5	Agency's functions with respect to pollution control; Agency to compile information relating to pollution and follow developments in technology & techniques; if required by the Ministers Agency to carry out assessments of the effect of pollution on the environment, and report on the options available to prevent, minimise, remedy or mitigate such effects.	D
6(1)	Agency generally to promote the conservation/enhancement of natural beauty/amenity, flora and fauna and the use of inland/coastal waters for recreational purposes; Agency to take into account the needs of persons who are chronically sick or disabled.	D

SECTION	PROVISION	DUTY/POWER
6(2)	Agency to take action to conserve, redistribute or otherwise augment water resources and secure their proper use.	D
6(4)	Agency to exercise a general supervision over all matters relating to flood defence.	D
6(6)	Agency to maintain, improve and develop fisheries.	D
7	Agency to exercise its powers (except in relation to its pollution control functions) so as to further conservation and enhancement of natural beauty, flora/fauna, geological features etc. In respect of its pollution control function to have regard to the desirability of conserving such matters; to have regard to the desirability of protecting/conserving sites etc. of interest; to take into account any effect which the Agency's proposals would have on the beauty or amenity of any area or on any flora, fauna etc.; to have regard to any effect which the proposals would have on the economic/social well being of rural communities; to have regard to the desirability of preserving public access etc., securing the availability of land/ water for recreational purposes.	D
8	Sites of special interest - where notified Agency to consult appropriate body before carrying out certain works; in an emergency Agency to give notice of works undertaken as soon as practicable.	D
9	Minister to have the power by Order to approve a Code of Practice with respect to the Agency's environmental and recreational duties; Agency to have regard to any such Code when discharging these duties; Minister to consult Agency (and other interested bodies) before making Order.	D

SECTION	PROVISION	DUTY/POWER
10	Incidental functions of Agency.	-
11	S/S to establish and maintain Advisory committee for Wales.	-
12	Agency must establish and maintain Environment Protection Advisory Committees for the different regions of England and Wales and consult and consider representations from such committees in relation to Agency proposals.	D
13	Agency must establish, maintain and consult regional and local fisheries advisory committees.	D
14	Continuation of Regional Flood Defence Committees; Agency to maintain a principal office for each RFDC.	D
15	Composition of RFDCs	D
16	Agency may vary the total number of members of a RFDC; Agency to submit determination to Minister.	P
17-19	Agency may make a scheme for the creation of a LFDC; continuation of existing schemes; RFDC may submit a scheme to the Agency for the creation, revocation or variation of a LFD scheme; RFDC to consult relevant bodies; Agency to send scheme to one of the Ministers for approval; composition of LFDCs; membership and proceedings (Schedule 5).	P&D
20-36	Provisions relating to the Scottish Environment Protection Agency.	-
37 (1)&(3)	Incidental general powers; Agency may do anything to facilitate or which is incidental/conducive to its functions, including acquisition/disposal of land, engineering/building works, institution of criminal proceedings, & provision of advice or assistance.	P

SECTION	PROVISION	DUTY/POWER
37(2)	Agency shall provide S/S or the Minister with advice & assistance.	D
37 (5)&(6)	Agency shall make arrangements for the carrying out of research related to its functions and may make the results of such research available, subject to payment of a fee or free of charge.	D&P
37(7)	Agency may by agreement charge a fee in respect of work done/ services provided, etc. in relation to environmental licences.	P
38	Any Minister may, with the agreement of the Agency, delegate his eligible functions to the Agency.	P
39	General duty of the Agency to have regard to costs and benefits when considering whether and/or in what manner to exercise its powers, unless this would be unreasonable in view of the nature/purpose of the power or in the circumstances of the particular case.	D
40	Minister may give Agency directions with respect to the carrying out of its functions and the implementation of Community obligations, etc; Agency must comply with any directions given.	D
41&42	Agency may make charging schemes, subject to the approval of S/S, in connection with licences for abstraction and impounding, other environmental licences and certain other activities; power to suspend or revoke an environmental licence for non-payment of charges; approval of charging schemes.	P
43	Incidental power of Agency to fix and recover charges for services and facilities provided in the course of carrying out its functions.	P

SECTION	PROVISION	DUTY/POWER
44	Ministers may determine the financial duties of the Agency; provision for dealing with financial surpluses.	-
45	Agency to keep proper accounts and records and to prepare a statement of account for each financial year; statement of account to comply with Ministry requirements.	D
46	Agency accounts to be audited by an auditor appointed by S/S; copy of audited accounts & auditor's report to be sent to Ministers and laid before Parliament by S/S; Comptroller and Auditor General to be entitled to inspect the accounts & records.	D
47	Minister may make grants to Agency.	-
48	Agency may borrow, within limits, from Minister or with the consent of Minister & with approval of Treasury from persons other than the Ministers such sums as may be required for carrying out its functions.	P
49	Ministers may, with Treasury approval, lend to the Agency money which it has power to borrow under S.48.	-
50	Ministers may, with Treasury consent, guarantee Agency's borrowing; if sums are paid under the guarantee Agency to repay these sums and interest as directed.	D
51	Agency to provide information as required by the Minister relating to the Agency's property, its functions & its responsibilities.	D
52	Agency to prepare an annual report and send copies to Ministers; a copy of the report to be laid before Parliament and published.	D
53	Minister may cause an inquiry to be held in connection with the functions of the Agency.	-

SECTION	PROVISION	DUTY/POWER
54	Agency may authorise a person who is not a Solicitor or Barrister to prosecute on its behalf in Magistrates Court proceedings.	P
55	Continuation of the exercise of functions transferred to Agency; abolition of NRA/LWRA shall not affect the validity of anything done by that Authority before the transfer date; anything done by a transferor body before the transfer date in connection with a transferred function shall continue in effect after that date and have effect as if done by the Agency.	-
56	Interpretation of Part I	-
57-60	Amending provisions to EPA & WRA	-

PART III Ss.61 - 79
NATIONAL PARKS

PART IV - AIR QUALITY

80	S/S shall prepare and publish a national air quality strategy; S/S to consult Agency and other interested bodies.	-
81	Agency to have regard to the strategy in discharging its pollution control functions;	D
82	LAs shall from time to time review quality of air within their areas.	-
83	Where air quality standards or objectives are not being achieved LA shall by order designate an area as an air quality management area or "designated area".	-
84	Duties of LAs in relation to designated areas including preparation of an action plan.	-
85	Reserve powers of S/S including power to direct LAs to take certain action.	-
86	Functions of County Councils.	-

87	Regulations in relation to air quality; before making any regulations S/S to consult Agency and other interested bodies.	-
88-91	Guidance; application to Isles of Scilly; supplemental provisions; interpretation.	-

PART V MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

92	Amendment to EPA : National Waste Strategy.	-
93-95	S/S may by regulations make provision imposing a producer responsibility obligation; regulations may impose a duty on the Agency to monitor compliance with any obligations imposed by the regulations; offence provisions.	D
96	Mineral Planning Permission - See Schedules 13 & 14.	-
97-98	Minister may by regulations make provision for the protection of important hedgerows & make grants for the conservation, enhancement or public enjoyment of the countryside.	-
100-105	Amendments to WRA, LDA, SFFA, etc.	-
108	(and Schedule 18) confers powers of entry on the Agency for purposes connected with the Agency's pollution control functions; includes power to take measurements, photographs, samples, to require the premises to be left undisturbed, any article/substance found to be dismantled or subject to test, to take possession & detain any article/substance, to require provision of information, production of records etc; also includes power to carry out experimental borings, install & maintain monitoring apparatus; requirement to give notice except in an emergency.	P

109	Agency may seize and render harmless any article/substance believed to be a cause of imminent danger of pollution or serious harm to human health; a written report to be prepared and served on a responsible person at the premises and on the owner of the article/substance.	P & D
110	Offence provisions.	-
111	Evidence in connection with certain pollution offences - amendment of WIA, WRA & EPA.	-
112	Amendment of certain offences relating to false/misleading statements or false entries (see Schedule 19).	-
113	Disclosure of Information between Agency and Ministers, Agency and LAs etc; restrictions on disclosure.	-
114	Power of S/S to delegate his functions of determining, or to refer matters involved in, appeals.	-
115	Application of Act to Crown; Agency may apply to the High Court to declare unlawful any act/ommission of the Crown.	P
117&118	Application of Act and provisions of other environmental legislation to the Isles of Scilly.	-
119-125	Miscellaneous; service of documents; amendments, repeals, interpretation, etc.	-

SCHEDULES

SCHED & PARA	PROVISION	DUTY/POWER
SCHED 1 paras 1-3	Agency; membership; agency to pay its members remuneration & allowances as determined and if required pensions, allowances, gratuities and compensation.	D
para 4	Agency may appoint officers & employees and pay them pensions, allowances & gratuities, subject to S/S approval.	P
para 5	Agency may regulate its own procedure (subject to S106 WRA).	P
para 6	Agency may delegate its powers to its members, officers & employees and to committee.	P
para 9	Minutes to be kept of Agency and committee proceedings.	D
para 10	Application of seal shall be authenticated by authorised officer.	D
para 11	Any document to be issued by the Agency may be signed by an authorised officer on behalf of the Agency.	P
SCHED 2	Transfer of Property, etc - supplementary provisions	-
SCHED 3 paras 2&3	Environmental Protection Advisory Committees; Duty of Agency to prepare a scheme with respect to the appointment of members of a regional advisory committee, for S/S approval; to submit scheme with statement of reasons and publish scheme; to bring approved Scheme to the notice of interested parties.	D
para 4	Agency may vary/replace scheme.	P
para 5	Agency to consult before appointing a member.	D
para 7	Agency to pay chairman and members of committee remuneration and allowances as determined.	D

SCHED & PARA	PROVISION	DUTY/POWER
SCHED 4	Boundaries of Regional Flood Defence Areas; power of Minister to alter boundaries.	-
SCHED 5	Membership and Proceedings of Regional & Local Flood Defence Committees; Agency to pay chairman remuneration and allowances as may be determined; Agency to pay members allowances.	D
SCHED 6	SEPA.	-
SCHED 7-10	Provisions relating to National Park Authorities.	-
SCHED 11	Air quality : supplemental provisions; consultation requirements (including the Agency) etc.	-
SCHED 12	Adds Schedule 2A to EPA 1990: objectives for the purpose of the national waste strategy.	-
SCHED 13 & 14	Review of old mineral planning permissions.	-
SCHED 15	Amendments to existing fisheries legislation.	-
SCHED 16 & 17	SEPA.	-
SCHED 18 para 2	Supplemental provisions with respect to powers of entry; Agency may apply for a warrant authorising entry;	P
paras 3 & 5	Any person exercising a power of entry must produce his authority before exercising power and leave premises secured;	D
para 6	Agency to pay full compensation where loss or damage sustained through the exercise of the Agency's power of entry.	D
SCHED 19, 21, 22, 23 & 24	Amendments to existing legislation, transitional provisions, savings & repeals.	-

SECTION 2: DUTIES AND POWERS [FORMERLY OF NATIONAL RIVERS AUTHORITY] UNDER:

A: WATER RESOURCES ACT 1991

Part I - Preliminary

SECTION	PROVISION	DUTY/POWER
1	REPEALED	-
2	REPEALED	
4	REPEALED (see now S.37 EA)	
5	REPEALED (see now S.40 EA)	
6	REPEALED (see now S.11 EA)	
7	REPEALED (see now S.12 EA)	
8	REPEALED (see now S.13 EA)	
9	REPEALED)	
10	REPEALED) (See now S.14-19 and	
11	REPEALED) Schedule 5 EA)	
12-14	REPEALED)	
15	Agency shall have regard to duties of water and sewerage undertakers when exercising its powers.	D
16	REPEALED)	
17	REPEALED) (See now S.7-9 EA)	
18	REPEALED)	

A: WATER RESOURCES ACT 1991

Part II - Water Resource Management

SECTION	PROVISION	DUTY/POWER
19	REPEALED (see now S.6(2) EA)	
20	Agency shall enter into and maintain water resource management schemes.	D
21	Agency may set minimum acceptable flows.	P
22	S/S can direct consideration of minimum acceptable flows; Agency must comply.	P & D
24	Restrictions on abstractions and offences.	-
25	Restrictions on impoundments and offences.	-
28	Agency may serve notice specifying relevant holding on which to use abstracted water.	P
30	Agency may serve conservation notice with respect to borings not requiring licences.	P
33	Relevant authorities may apply to S/S for order for further rights of abstraction.	P
34	S/S may make regulations concerning applications.	P
36	Combined application for abstraction and impoundment may be made.	P
38	General consideration of applications.	D
39	Agency must not cause derogation in granting licences.	D
40	Agency must take river flow into account when granting licences.	D
41	S/S may call in applications.	P

42	S/S can grant or refuse called-in applications, hold a local inquiry or a hearing, but must take into account possible derogation; S/S may direct Agency to grant the licence, with conditions.	P & D
43	Applicant can appeal to S/S.	P
44	S/S can determine appeal, hold a local inquiry or hearing, but must take into account representations and possible derogation; S/S may direct Agency to grant, vary or revoke the licence.	P & D
45	S/S may make regulations for appeals; S/S must protect National Parks interests.	P & D
46	S/S may make regulations on the form of licences, but must provide certain types of conditions.	P & D
50	S/S may make regulations on succession rights.	P
51	Licence holders may apply for revocation or variation.	-
52	Agency can (and S/S can direct Agency to) formulate proposals for revoking or varying licences.	P & D
53	Agency may, in pursuance of the proposals, vary or revoke a licence; objections must be referred to the S/S.	P & D
54	S/S must consider the proposals, objections and Agency representations, and determine whether to revoke or vary the licence; S/S must consider the possibility of derogation; on determination S/S to direct the Agency to revoke or vary the licence.	D
55	Fishing rights owner may apply for the variation or revocation of a licence; if so he must serve notice of the objection on the licence holder and Agency.	P

56	S/S must take account of representations when determining a Section 55 application; he may hold a local inquiry or hearing; on determination he shall direct the Agency to revoke or vary the licence.	D
57	Agency may restrict spray irrigation licences in an emergency.	P
58	REPEALED (see now S.41(6) EA)	
59	S/S may make regulations in respect of revocations or variations to licences.	P
60	Right to sue Agency for damages for breach of a statutory duty not to cause derogation in granting licences; together with defences.	P
61	Agency must pay compensation where a licence is modified on the direction of the S/S.	D
62	Fishing rights owner may claim compensation from Agency where licence varied or revoked under S.55.	D
63	S/S may indemnify Agency in certain cases.	P
64	S/S may make regulations concerning Agency abstraction and impounding.	P
66	S/S may by order except any inland waters from British Waterways Board control.	P
68	REPEALED	
69	Agency and others may challenge S/S's decisions in the High Court.	P
71	S/S may by order repeal, amend or adapt local enactments.	P
73-78	S/S may make ordinary and emergency drought orders where serious deficiency of supplies or on environmental grounds.	P
79	Compensation must be paid when drought order made.	D

79A	Agency may on application of a water undertaker issue a drought permit.	P
80	Offences against drought orders and drought permits.	-

A: WATER RESOURCES ACT 1991

Part III - Control of Pollution of Water Resources

SECTION	PROVISION	DUTY/POWER
82	S/S may prescribe by regulations a system of classification of waters.	P
83	S/S may by serving notice on Agency, specifying one or more classifications under Section 82, and in relation to each a date, establish WQO for any waters; S/S may only review WQOs either every 5 years, or if Agency requests a review, after consultation.	P
84	Agency must exercise powers so that as far as practicable WQOs are achieved at all times; Agency shall monitor pollution in controlled waters.	D D
85	Offence of polluting controlled waters; fines and imprisonment for offences.	-
86	Prohibition of certain discharges by notice or regulations.	P
87	Discharges into and from public sewers, including specific defences.	-
88	Defences to principal offences, including a consent given by this Act. (Schedule 10: duty on Agency to consider written representations etc. and to grant consent, unconditionally or otherwise).	-
89	Other defences, including emergencies, effluent from a vessel, abandoned mines, solid refuse of a mine or quarry and highway drains.	-
89(3A)	Abandoned mine defence shall not apply to mines becoming abandoned after 31 December 1999.	-

90	Offences of removal of deposits or vegetation in inland waters, including fine level; S/S may make regulations extending to coastal waters.	P
90A	Applications for consent under S.89 & 90. Agency may by notice require additional information for the purpose of determining the application and may refuse to deal with the application until the information is provided.	P
90B	Power of Agency to serve enforcement notice for contravention of the conditions of a consent; offence provisions for failing to comply with an enforcement notice; power of Agency to take proceedings in the High Court to secure compliance with enforcement notice.	P
91	Appeals against consents and enforcement notices, including power for S/S to affirm or quash the Agency's decision or direct the Agency; S/S may make regulations with respect to appeals; where appeal against decision to revoke or modify a consent, the revocation or modification shall not take effect pending determination of appeal (S.2F) unless Agency states that S.2F should not apply; if subsequently S/S determines that Agency acted unreasonably in excluding applications of S.2F compensation may be payable by the Agency.	P D
91A	Abandoned mines; Introductory	-
91B	Abandoned mines : requirement on mine operators to give notice of a proposed abandonment. Agency must inform local authority of proposed abandonment if it considers land contamination likely.	-

92	S/S may make regulations governing steerage of matters which would pollute waters if they entered them including power to Agency to determine circumstances in which works to be carried out/precautions taken and to impose such on relevant persons.	P
93	S/S may designate water protection zones, within which specified activities capable of giving rise to pollution may be prohibited or restricted; an order made under this Section may confer powers on Agency to determine, prohibit or restrict activities, with offence provisions, including procedures and consequential provisions.	P
94-95	S/S/Minister may designate agricultural land as nitrate sensitive areas, including prohibitions or restrictions on activities and compensation; Minister may enter into agreements whereby landowner accepts obligations with respect to the management of land in consideration for the payment of monies (which shall bind land).	P
96	S/S/Minister may make regulations with respect to consents required in water protection zones or nitrate sensitive areas.	P
97	S/S/Minister may by Order approve and issue Codes of Good Agricultural Practice; breach of Code is not of itself an offence, but Agency to take it into account when issuing a prohibition notice or exercising powers under regulations under Section 92.	P D
98	S/S may make regulations incorporating radioactive substances if necessary. S.40 Radioactive Substances Act 1993 - radioactivity to be disregarded for purposes of other statutory provisions; those sections of the WRA 1991 stated in Part 1, Sch. 3 RSA 1993 are still subject, for RSA purposes, to S.98 power.	P

99	S/S may make regulations, concerning consents required by Agency.	P
102	S/S may make regulations to give effect to international obligations.	P
104	Meaning of "controlled waters"; S/S may order to amend.	P

A: WATER RESOURCES ACT 1991

Part IV - Flood Defence

SECTION	PROVISION	DUTY/POWER
105	(See S.6(4) EA - Agency duty to exercise a general supervision over flood defence matters). Agency shall carry out surveys and shall have due regard to the interests of fisheries.	D
106	All flood defence functions shall be carried out by RFDCs, except issuing levies or making drainage charges or borrowing money; Agency may direct RFDCs when flood defence activities will materially affect another function; RFDC must comply.	D
107	Main river functions by reference to Land Drainage Act 1991.	-
108	Agency may make schemes for transfer to the Agency of main river functions from other drainage bodies; Minister to make scheme by order to include expenses, liabilities and compensation.	P
109-110	Regulation of structures in, over and under main river, with power to remove; consent may be granted with application fee of £50 (or as may be prescribed).	P
111	Agency may enter into arrangements with navigation and conservancy authorities.	P
112	Minister may regulate flood defence activities.	P
113	Interpretation section.	-

A: WATER RESOURCES ACT 1991

Part V - General Fisheries Duties

SECTION	PROVISION	DUTY/POWER
114	REPEALED (see now S.6(6) EA)	
115	Ministers have the power, on application made by the Agency, to make Fisheries Orders in relation to a particular area (defined by the Order) for modification of provisions of the SFF Act 1975, Sections 142 or 156 or paras 6 or 7 of Sched 25 WRA or provisions of any local Act relating to any Fishery in the area; procedural requirements.	P D
116	Ministers may make regulations to give effect to international obligations.	P

A: WATER RESOURCES ACT 1991

Part VI - Financial Provisions

SECTION	PROVISION	DUTY/POWER
117	REPEALED (see now S.44 EA)	
118	Agency shall use monies from levies, general and special drainage charges and contributions from IDBs only for the flood defence district in which it is raised; provision with respect to Agency and RFDC administrative expenses and R & D.	D
119	Funds raised under local enactments shall only be used for particular purposes.	D
120	Regulation of contributions between the Agency and certain other authorities, including power for S/S to determine.	P
121	REPEALED (see now S.45 EA)	
122	REPEALED (see now S.46 EA)	
123&124	REPEALED (see now S.41 EA)	
125-130	Water resources charges - specific exemptions; Agency may enter agreements exempting from charges; charges in respect of spray irrigation, with S/S arbitration; restrictions on charges in respect of abstraction from waters of British Waterways Board.	P
131-132	REPEALED (see now S.41 EA)	
133	Agency to be levying body with power to issue levies for flood defence function.	P
134-143	Agency may raise general drainage charges and special drainage charges in the interests of agriculture; contributions from IDBs; issuing of precepts; fisheries contributions; navigation tolls.	P

144	REPEALED (see now S.43 EA)	
145	Interpretation section.	-
146	REPEALED	
147-149	Minister may make flood defence grants including for flood warning; other grants may be made in respect of purchase of land, housing accommodation for employees, compensation, bridge building, and drainage works.	P
150-153	REPEALED (see now S.47-50 EA)	

172	Agency may enter premises or vessels for the purposes of determining whether to exercise and exercising any power or duty (other than for the purpose of the Agency's pollution control functions under the EA 1995) including inspections, measurements and tests, and with respect to water pollution experimental borings and installing monitoring equipment.	P
174	Offence of impersonation of Agency personnel.	-
176	Offence of interference with works or pipes belonging to the Agency.	-
177	Obligation on Agency to pay compensation and minimise damage when exercising works powers under Sections 159-167 (see Schedule 21).	D
178-183	Protective provisions.	D
184	Agency must consult local Welsh communities and make available recreational facilities when building reservoir.	D
186	Interpretation section.	-

A: WATER RESOURCES ACT 1991

Part VIII - Information Provisions

SECTION	PROVISION	DUTY/POWER
187	REPEALED (see now S.52 EA)	
188	Agency shall publish information from which assessments can be made of actual and prospective demand for water, and actual and prospective water resources.	D
189	Agency shall keep registers of abstraction and impounding licences, including applications, successions and deemed licences.	D
190	Agency shall keep pollution control registers, including information on WQOs, applications, consents and conditions, sampling and analysis, enforcement notices, revocations, appeals, directions given by the S/S, convictions, information obtained in pursuance of conditions of consents and works notices; registers shall be made available to the public free of charge, with reasonable facilities for copying. S/S may direct Agency to remove certain information from the register.	D
191	Agency shall keep registers for the purposes of work discharges; offence provisions.	D
191A	S/S may direct the Agency to exclude information affecting national security from the register. Agency to notify S/S of information excluded.	D

191B	Commercially confidential information relating to the affairs of a person or business to be excluded from the register; Agency to determine whether information is commercially confidential; provision for appeal to S/S. S/S may direct Agency as to specified information required to be included in the public interest.	D
192	S/S shall deposit fresh-water limit maps with the Agency, which shall be available to the public for inspection free of charge.	D
193-194	Agency shall keep the main river map for the area of each RFDC at the principal office for that area and provide reasonable inspection and copying facilities; Ministers may amend whole or part of the main river map.	D
195	Agency shall keep maps of location of all Agency resource/discharge pipes and underground works, to be made available to the public free of charge.	D
196	REPEALED (see now S.51 EA)	
197	Agency shall provide water undertakers with information connected with its functions, and the public with information on flow, level or volume of inland or underground waters and precipitation and evaporation; water undertakers shall provide Agency with information as above; right of Agency to inspect other persons records, with offence provision; the form etc of exchange of information between Agency and water undertaker to be reasonable; some disclosure free of charge; water industry disclosure subject to enforcements.	D
198	Anyone proposing to sink a borehole below to search for water must notify NERC and keep records, with offence provision.	D

199	Anyone constructing or extending a boring to search for/extract minerals must notify the Agency and keep records, with offence provisions.	D
200	Anyone installing gauges for measuring and recording flow, level and volume of inland waters must notify Agency and keep records, with offence provisions.	D
201	Agency may require information on abstractions, with arbitration by S/S and offence provisions.	P
202	Agency shall provide Ministers with advice and assistance for them to carry out their pollution control functions; Agency or Ministers may require information from others for the purpose of carrying out its functions under the water pollution provisions of the Act, with offence provision.	D & P
203	Agency shall provide water quality/pollution incident information to water undertaker and vice versa; both free of charge.	D
204	Agency shall not disclose information relating to the affairs of an individual or to any particular business without consent, with certain exceptions.	D
205	NERC to treat as confidential information obtained under Section 198 above, with resolution in the High court and offence provisions.	D
206	Offence of knowingly or recklessly making false or misleading statements, with offence provisions; Offence of intentionally making a false entry.	-

A: WATER RESOURCES ACT 1991

Part IX - Miscellaneous and Supplemental

SECTION	PROVISION	DUTY/POWER
207	S/S may give Agency directions in the interests of national security with which Agency must comply.	P & D
208	Civil liability of Agency for escapes of water.	D
209	Evidence of abstractions.	-
210-212	Agency may make byelaws (Schedule 25) regulating use of inland waters, navigable waters and Agency waterways, controlling sanitary appliances on vessels, for flood defence and drainage purposes and for fisheries functions; with offence provisions and provisions for compensation in respect of certain fisheries provisions.	P
213-215	REPEALED (see now S.53 EA)	
216	Agency shall enforce restrictions on abstractions and impoundments.	D
220	Provisions relating to service of documents.	D
221	General interpretation.	-
222	Provides generally for the application of the Act to the Crown, and Crown land, subject to prescribed exceptions.	-

A: WATER RESOURCES ACT 1991

SCHEDULES

SCHED & PARA.	PROVISION	DUTY/POWER
SCHED 1	REPEALED	
SCHED 2 para 1	Agency may apply for the transfer to it of the functions or property of a navigation, harbour or conservancy authority; prescribed procedure.	P
SCHED 3	REPEALED (see now Schedule 4 EA)	-
SCHED 4	REPEALED (see now Schedule 5 EA)	
SCHED 5 para 2	Procedure relating to statements on minimum acceptable flows - before submitting a draft statement under S.21 or 22 the Agency shall publish a notice of the proposed statement.	D
para 3	Agency shall provide copies of the draft statement.	D
para 4	S/S may approve the statement or before approving it cause a local inquiry to be held.	P
para 5	Where the statement is approved S/S shall give notice to this effect and the Agency shall publish the notice.	D
SCHED 6 para 1	Procedure for obtaining an order under S.33 (exemption orders). Agency to publish a notice as to the effect of the draft order and serve copies.	D
para 3	S/S may make Order as submitted or as altered as he thinks fit. S/S may cause local inquiry to be held	P
para 4	Where order is made S/S shall give notice to this effect and the Agency shall publish the notice.	D
SCHED 7	Licences of Right- Paragraphs 30 and 31 of Schedule 26 to the Water Act 1989 shall continue to apply subject to this Schedule.	-

SCHED 8	Proceedings on applications for drought orders and permits.	-
SCHED 9	Compensation to be paid when drought order made; applies also to drought permits.	D
SCHED 10	Application for Discharge Consents.	
para 2	Agency to give notice of application, consider representations made.	D
para 3	Agency to consider whether to give the consent unconditionally, conditionally or to refuse it.	D
para 3(4)	Agency may impose conditions.	P
para 4	S/S may give the Agency directions with respect to any application	P/D
para 5	S/S may call-in an application and the Agency must comply with that direction.	D
para 6	Power of Agency to give a consent although no application made.	P
para 7	Agency may review any consent from time to time and may revoke a consent, modify its conditions or impose conditions on it.	P
para 7(4)	S/S may direct the Agency to revoke a consent, modify its conditions or impose conditions on it.	P
para 7(5)	Agency required to pay compensation in certain circumstances where direction issued to protect public health or wildlife and loss or damage suffered as a result.	D
para 8	Restriction on variation/ revocation of consents.	-
para 9	S/S may direct Agency to review consents; Agency to submit its proposals for modifications; S/S may direct Agency.	D
para 11	Transfer of consents.	-

SCHED 11	Agency may apply for water protection zone order; procedure for such applications.	P/D
SCHED 12	Application by Agency for Designation Order under S.94 - procedure for such applications.	P/D
SCHED 13	Transitional water pollution provisions; Agency to determine matters referred to it by S/S; S/S may require Agency to publish information about deemed consents; deemed applications of undertakers.	D
SCHED 14 para 1	Procedure on application for S.108 order. Agency to publish notice of the Scheme, send copies to interested bodies etc.	D
para 3(1)	Minister to consider objections - power to hold inquiry .	D/P
para 3(2)	Minister may modify the Scheme and confirm the Scheme with or without modifications.	P
para 6	Power of Minister to make regulations in relation to S.108 orders.	P
SCHED 15	Procedural requirements imposed on the Agency with respect to the raising of Drainage Charges.	D
para 4	Agency may serve notice requiring information.	P
para 5	Agency may make arrangements for Drainage Charges to be levied on the owner of land rather than the occupier.	P
para 9	Agency may require returns to be made in relation to land.	P
para 10	Agency may amend a demand and correct an erroneous assessment.	P
para 12	Power of the Agency to recover arrears of Drainage Charge.	P
SCHED 16	Procedural requirements imposed on the Agency with respect to the raising of Special Drainage Charges.	D

B: WATER ACT 1989

SECTION	PROVISION	DUTY/POWER
1(6)	Schedule 1 to [continue to] have effect. (But note Schedule 1 now wholly repealed)	-
4	Transfer of the water authority functions (including Schemes of Transfer), including Schedule 2 (making, modification and transfers by schemes, etc) duty of water authorities.	-
137(9)	Chairman of RFDC disqualified from House of Commons.	-
139(6)	Chairman of LFDCs disqualified from House of Commons.	-
141(5)	Transfer of functions of water authorities relating to fisheries (Schedule 17).	-
142(2)	Transfer of navigation, conservancy and harbour local legislation (Chapter V of Part III): cf. Sch. 13.	-
168	Water quality in Scotland (Schedule 22).	-
169	Water pollution in Scotland (Schedule 23).	-
173	S/S may make payments for former officers of water authorities and designated persons (see Schedule 2).	P
175	Offence of making false statements, no prosecution except by or with consent of S/S, Minister or DPP.	-
177	Offences of bodies corporate - if committed with consent, connivance, neglect of director, manager or similar officer individual guilty of offence in addition to body corporate.	-

185(2)	Power of S/S to make regulation, including transitional provisions (eg WI pensions - see para 2(2) Schedule 2, para 2(2) Schedule 26 and 1989 SI 1161).	p.
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B: WATER ACT 1989

SCHED & PARA	PROVISION	DUTY/POWER
SCHED 2	Water Authorities to make a Scheme for the division of their property, rights & liabilities between their successor company and the NRA.	D
SCHED 13 PARA 23(3)	Transfer of functions*which are functions by virtue of an order/agreement under S.82 of WRA 1963.	-
SCHED 17	Transfer of fisheries function; S/S may revoke or amend subordinate legislation; amendments to existing legislation.	-
SCHED 23 & 24	Apply to Scotland only.	-
SCHED 25 & 26	Amendments, transitional provisions & savings.	
SCHED 26(2)	S/S may by regulations make transitional provisions and savings in relation to the payment of pensions, etc. to persons who have been officers, employees, chairmen, etc.	-

C: LAND DRAINAGE ACT 1991

Part I - Internal Drainage Board

SECTION	PROVISION	DUTY/POWER
1	Continuation of internal drainage districts and internal drainage boards (IDBs) as bodies corporate; duty to supervise all land drainage and matters and possess powers; membership.	-
2	Power by qualifying persons or bodies to require Agency to review boundaries; power to Agency to submit a scheme for reorganisation to the Minister, or to direct IDB to make, vary or revoke a Section 38 order (subdividing a district).	P
3	Power of Agency to prepare and submit a scheme (and for the Minister to order Agency to do so) to alter boundaries, amalgamate districts, abolish, reconstitute, constitute boards, membership, alter local legislation, or consequential or supplemented matters, including rights and liabilities; Minister may by statutory instrument confirm the scheme.	P
4	Power of the Minister to order transfer to Agency of powers, duties, rights, liabilities etc. of IDB.	P
5	Power of Minister to re-transfer back to IDB.	P
6	Power of Minister to pay compensation for loss of office under a Section 3 scheme, under regulations; requires the Agency by regulations to pay compensation etc under Section 3 or 4 scheme.	P/D

7	Agency may give IDBs general or special directions to secure existing or new land drainage works; Agency to agree certain IDB works; Agency to have power to construct works to prevent or remedy damage resulting from IDB works and recover the costs; report to Parliament.	P
8	Concurrent powers of IDB and Agency under Sections 21 (enforcement of obligations to repair watercourses) and 23 (prohibition on obstructions in watercourses).	P
9	Agency may exercise IDB powers in default; Minister to arbitrate; Agency may inspect IDB records; with offence provisions.	P
10	Agency may direct that its default powers shall be exercisable by local authority (on local authority's application).	P
11	Agency may enter agreement with IDB for the IDB to carry out works on main river; Agency may carry out IDB works (with their consent); IDB may carry out works in another IDB district.	P
12	REPEALED by LDA 1994 (see S.61 A-E LDA 1991).	-
13	REPEALED by LDA 1994 (see S.61 A-E LDA 1991).	-

C: LAND DRAINAGE ACT 1991

Part II - Provisions for Facilitating or Securing the Drainage of Land

SECTION	PROVISION	DUTY/POWER
14	Powers of drainage board and local authorities (LA) to maintain and improve existing works, and construct new works, power of entry to maintain works; compensation for damage, with reference to the Lands Tribunal.	P
15	IDB and LA may dispose of dredgings within one machine operation, with power to compensate for damage; or payment to the council to dispose.	P
16	County councils or Agency may exercise Sections 14 and 15 powers, with appeal to S/S.	P
17(1)	LA may not carry out works under Sections 14-16 in connection with any watercourse except with consent of Agency and Agency may impose conditions on use of Section 14-16 powers by LA.	P
17(2)	Agency must consult with the IDB before giving consent or imposing conditions.	D
18	Agency or LA may enter land to drain a small area; Schedule 4 provides for a scheme to be made to drain such areas, with maximum £50 per hectare expenditure (Minister can vary amount) and power to recover from beneficiaries; scheme to bind land as a local land charge.	P
19	IDB may acquire, alter or improve, or pay for drainage works of navigation or conservancy authorities.	P
20	IDB and LA may carry out and charge for works for others in their district.	P

21	Drainage board may serve notice to enforce repair of watercourse, bridge or drainage work [Agency has parallel power by virtue of Section 107(2) WRA]; power to carry out works and recover expenses.	P
22	Persons may request authorisation to carry out drainage works on application to Minister, with resolution at a local inquiry if objection to proposed works received; compensation and Lands Tribunal provisions.	P
23	Prohibition without consent of drainage board on obstructions etc in watercourses; consent fee payable; deemed consent if Board fails to notify applicant in writing of determination within two months of date application made/application fee paid (if later) resolution by arbitration; applies to IDBs where they exist, and otherwise to the Agency.	-
24	Power to serve notice if Section 23 contravened, with offence provisions and power to remedy and recover expenses.	P
25	IDB/Agency or LA may serve notice to require works to maintain flow of watercourses, with power to carry out works and recover expenses, and offence provisions [see Section 107(3) WRA].	P
26	Competing jurisdictions under Section 25.	-
27	Appeals against notices under Section 25.	-
28	Agricultural Land Tribunal may order remedial work to a ditch.	P
29	Minister or drainage body to carry out Section 28 works, including entry, compensation etc provisions.	P
30	Agricultural Land Tribunal may order work in connection with a ditch.	P

31	Composition and incidental powers of Agricultural Land Tribunal.	-
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C: LAND DRAINAGE ACT 1991

Part III - Powers to Modify Existing Obligations

SECTION	PROVISION	DUTY/POWER
32	Agency may submit scheme for variation, revocation or amendment of an obligation under a local enactment if it affects land drainage; scheme to be made by Minister as a statutory instrument.	P
33	Agency/IDB may commute land drainage obligations [also on main rivers - see Section 107(4) WRA].	P
34	Exemption from drainage rates where obligation commuted; determination and payment of commuted sum.	-
35	Agency and IDB may apply to vary etc local enactments regarding navigation rights.	P

C: LAND DRAINAGE ACT 1991

Part IV - Financial Provisions

SECTION	PROVISION	DUTY/POWER
36	IDB expenses to be met by drainage rates and special levies (and contributions by Agency).	-
37	Drainage rates to be determined according to agricultural land values; balance of IDB expenses to come from special levies; how to calculate aggregate annual value of chargeable properties and other lands.	-
38	IDB may divide a district for the purpose of raising differential drainage values or special levies; Minister confirms the order.	-
39	Petition for sub-division of an IDB to be considered by IDB; Agency or Minister to direct making, varying or revocation of order.	P
40-51	IDB may make an annual drainage rate in respect of agricultural land and building; detailed provisions on calculations, notices, appeals, adjustments etc.	P
52	IDB to make, keep and alter a Register of Drainage Hereditaments including a map.	D
53	IDB may serve notice to require name of occupant, with offence provisions.	P
54	IDB powers for enforcing payment.	P
55	IDB and LA may borrow monies, repayable out of rates; power to mortgage rates.	P
56	Concurrent powers with Agency to impose navigation tolls [Section 143 WRA].	P

57	Drainage Board may apply to Agency for a contribution; Agency may make such a contribution; appeal to Minister, with option to call local inquiry; report to Parliament; enforcement of Ministerial order by mandamus.	P
58	Allocation of Agency funds if it is also an IDB.	-
59	Ministerial grants to drainage bodies (except Agency) for drainage schemes.	-
60	LA may contribute to drainage works.	-
61	Land drainage expenses of LAs.	-
61A	Duty of IDBs, Minister and Agency to exercise any power so as to further conservation and enhancement of natural beauty, conservation of flora, fauna, and features of special interest; to have regard to the desirability of protecting/conserving buildings/sites of archaeological, etc. interest, access to areas of beauty, archaeological interest; to take into account effect on beauty/amenity of any area etc; IDB to have duties with regard to proposals relating to the functions of the Agency or water and sewerage undertakers; duty of IDB to secure recreational activities and to take into account the chronically sick and disabled.	D
61B	Duty of local authorities, Ministers and Agency in formulating/considering proposals relating to any functions of a local authority to exercise powers so as to further/have regard to/ take into account the issues referred to in S.61A.	D
61C	Duties with respect to SSSIs.	D
61D	Minister may give directions to drainage boards.	P/D

61E	Minister's may approve codes of practice giving guidance with respect to the matters referred to in S.61A & B; Minister to consult with Agency.	P/D
61F	IDBs may with consent of Agency operate drainage works so as to manage level of water in watercourse to facilitate spray irrigation.	P

C: LAND DRAINAGE ACT 1991

Part V - Miscellaneous and Supplemental

SECTION	PROVISION	DUTY/POWER
62	IDB and LAs may acquire land outside its district, compulsorily with Ministerial consent, with compensation provisions.	P
63	IDBs may dispose of land.	P
64	IDB/LA authorised person may enter land, survey, inspect documents, take persons and equipment onto land, but leave land secured against trespassers, subject to 7 day notice provisions except in an emergency; compensation provisions with reference to the Lands Tribunal; offence of obstruction; exclusion of Crown etc lands.	P
65	Ministerial power to make regulations generally.	P
66	IDB/LA may make byelaws for efficient working of drainage system; offence provisions, default and expenses powers etc.	P
67	Protection for particular undertakings (including Agency and fisheries) [also applies to Agency - see Sections 179 and 183, Schedule 22 WRA].	-
68	Navigation, harbour or conservancy authority may divert and substitute IDB watercourses.	P
69	Power of Ministers to hold local inquiries.	P
70	Confidentiality of information obtained by Agency [see Section 204 WRA].	D
71	Service of Documents.	D
72	Interpretation section.	-
73	Application of Act to Crown.	-

C: LAND DRAINAGE ACT 1991

SCHED & PARA	PROVISION	DUTY/POWER
SCHED 1	Members of IDBs	
paras 5&6	Charging Authority may appoint IDB members to issue levies to that Authority where it is wholly or partly included in an IDD.	P
SCHED 2	Payment of expenses etc. of members and Officers; proceedings of IDBs.	-
SCHED 3	Procedure with respect to Orders under S.3-5, 32 & 35; notice of proposed order to be publicised & objections considered by Minister; Minister may make modifications to the Order; notice of order to be given; power to challenge unconfirmed Order.	D
SCHED 4	Procedure for making Scheme for small drainage works; LA to consult Agency; Agency/LA to give notice before making Scheme; if objections received Agency/LA to send details to Ministers; Minister may hold public inquiry; Minister may confirm scheme; where Scheme is made notice to this effect must be given by Agency/LA.	D
SCHED 5	Procedure for making Byelaws by IDBs & LAs.	-
SCHED 6	Protection for particular undertakings, including the Agency.	-

D: SALMON AND FRESHWATER FISHERIES ACT 1975

Part I - Prohibition of Certain Modes of Taking or Destroying Fish etc

SECTION	PROVISION	DUTY/POWER
1	Offences of using or having in possession certain prohibited implements for purpose of taking or killing salmon, trout or freshwater fish ("Fish") or throwing stone/missile in order to take/kill any Fish. Defence to show act done for preservation or development of private fishery and previous permission of Agency (Section 141(5) and Schedule 17 of Water Act 1989 (WA)); power to authorise prohibited instrument.	P
2	Offences of using fish roe taking, killing or injuring unclean or immature Fish and buying, selling or in possession of fish which is unclean or immature; power to authorise an act which would otherwise be an offence.	P
3	Netting offences.	-
4	Offences of polluting waters containing fish. Defence if pollution occurs in accordance with consent issued under Part II Chapter III WRA 1991; power to take proceedings.	P
5	Offence of using explosives, poisons etc with intent to take or destroy fish and of destruction of dams et; power to authorise use of explosives etc.	P

D: SALMON AND FRESHWATER FISHERIES ACT 1975

Part II - Obstructions to Passage of Fish

SECTION	PROVISION	DUTY/POWER
6	Offences of using/placing fixed engines for taking of salmon or migratory trout; power to authorise possession or destruction of fixed engine.	P
7-8	Offence of using unauthorised fishing weir or fishing mill dam for taking/easing the taking of salmon or migratory trout; power to remove obstruction to free passage of fish.	P
9	Agency may require owner/occupier of new/alterd dam (which has created increased obstruction to passage of salmon or migratory trout) to make fish pass. Form and dimension of pass to be approved by Agency. Agency default powers together with rights of entry and power to recover expenses of carrying out work from defaulter.	P
10	Agency may construct and maintain/alter fish passes/free gaps. Agency may recover cost of repairs to any new/existing fish pass from any person injuring such pass.	P
11	Agency may grant approval to fish pass on provisional basis until the Agency is satisfied that the pass is functioning satisfactorily; Applicant liable to meet any costs incurred by the Agency and must supply Agency with any information required; Agency may revoke approval whilst at provisional stage after giving not less than 90 days notice of intention to do so; Agency may approve/certify fish pass if it is efficient in all respects and for all purposes.	P

12	Offences of altering/injuring fish pass/free gap. Deemed alteration if failure to repair after service of notice by Agency on owner/occupier of dam within reasonable time; power to require repair of fish pass.	P
13	Offence to open sluices on Sundays/times when water not required for milling purposes in manner to cause water flow through fish pass without permission of Agency; power to authorise use of sluices.	P
14	Unless exemption granted by Agency owner/occupier of any mill, fish farm or water or canal undertaking where water diverted is to install and maintain a screen in order to prevent descent of salmon or migratory trout or the egress of farmed fish from the farm; a continuous by-wash to be provided; any exemption may be granted subject to conditions; offence and defence provisions; power to grant exemption. NB: For commencement provisions for the amendments to S.14 see EA Commencement No. 1 Order.	P
15	Agency may at its own expense use screens to limit movements of salmon and trout. Offence for person to interfere with such screens. Agency may also adopt other means for limiting movements of salmon and trout.	P
16	Offence of taking salmon or migratory trout by means of boxes or cribs in weirs and dams.	-
17	Offence of taking/killing (except rod and line) or scaring/disturbing salmon or trout within restricted area above or below dam or obstruction. Exceptions.	-

18	<p>Offence to obstruct any person legally authorised to act under Sections 9, 10 or 15 above. Agency will not construct/abolish/alter a fish pass or abolish/alter a free gap (Section 10) or do any work under Section 15 unless reasonable notice served on owner/occupier. Agency is to take into account any objections made. Agency to pay compensation in respect of any injury caused. Disputed amount to arbitration.</p>	D
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Part. III - Times of Fishing and Selling and Exporting Fish

53

D: SALMON AND FRESHWATER FISHERIES ACT 1975

Part IV - Fishing Licences

SECTION	PROVISION	DUTY/POWER
25	<p>Agency must regulate fishing for salmon/trout and (except if excused by Minister) freshwater fish of any description/eels by a system of licensing ("Fishing Licence"). Details of matters covered by Fishing Licence. Agency to fix duty payable in respect of Fishing Licence (Schedule 2), method of fixing duties and their alteration. Net licences. Subject to Section 26 below Agency shall grant fishing licence to every applicant (who at time of application is not disqualified) on payment of duty. Scope of fishing licence; power to grant general fishing licence.</p>	<p>D</p> <p>D</p> <p>P</p>
26	<p>Agency may (by order confirmed by Minister) limit number of fishing licences in any year. Provisions for draft order to be published, objections considered and local inquiry held in certain circumstances. Minister power to vary/revoke orders.</p>	P
27	<p>Offence of unlicensed fishing.</p>	-

D: SALMON AND FRESHWATER FISHERIES ACT 1975

Part V - Administration and Enforcement - Regulation of Fisheries etc

SECTION	PROVISION	DUTY/POWER
28	REPEALED (see now S.142 WRA)	
29	Minister has power to grant licence for business of artificially propagating/rearing salmon or trout. Minister may impose conditions and revoke licence if conditions not observed.	P
30	Offence to introduce fish/spawn into inland water without prior consent of Agency; power to give consent.	P

D: SALMON AND FRESHWATER FISHERIES ACT 1975

Part VI - Powers of Water Bailiff

SECTION	PROVISION	DUTY/POWER
31	Powers of Water Bailiff (appointed by Agency) (include examining dam, weir etc, stop and search boat/vessel and seizure). Offence to obstruct bailiff in any such entry search examination or seizure.	P
32	Bailiff/other officer power to enter land under special order in writing from Agency/Minister for purpose of preventing any offence (order limited to 12 months).	P
33	Power to obtain order permitting entry upon land in order to detect offender. Power to obtain warrant for seizure of illegal equipment and fish taken illegally. Time limits on order and warrants.	P
34	Power to apprehend persons fishing illegally at night.	P
35	Power to require any person fishing (or whom is about to or has fished), to produce their fishing licence and to state their name and address; corresponding offence provisions.	P
36	Water bailiffs deemed to be constables for the purpose of enforcing this Act and have the same powers and are subject to the same liabilities.	P/D
37	Mode of prosecution (see Parts I and II of Schedule 4).	

37A	Power of Water Bailiff to issue a fixed penalty notice in respect of a fixed penalty offence; no proceedings shall be instituted for the offence before the expiration of the period for paying the fixed penalty; Agency may extend the period for payment of the penalty; Agency may withdraw a fixed penalty notice; requirement of contents of the notice; Minister may make regulations with respect to the giving of fixed penalty notices.	P
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D: SALMON AND FRESHWATER FISHERIES ACT 1975

Part VII - Miscellaneous and Supplementary

SECTION	PROVISION	DUTY/POWER
38	Works below high water mark require prior consent of S/S. S/S power to remove and restore site and recover costs if work carried out without consent.	P
39-40	Application to Border Rivers, Solway Firth and River Severn.	-
41	Interpretation.	-

D: SALMON AND FRESHWATER FISHERIES ACT 1975

SCHED & PARA	PROVISION	DUTY/POWER
SCHED 1	Duty of Agency to make Byelaws fixing close seasons and times for fishing for salmon and trout (other than rainbow trout); minimum close seasons and times; prescribed close seasons where not specified nor dispensed with in Byelaws.	D
SCHED 2 para 1	Duty payable on fishing licences to be fixed by the Agency; Agency may grant exemption;	P
para 2	Different duties may be fixed in respect of different fish, etc;	P
para 3	Agency to advertise one month before fixing/altering duty;	D
para 4	If objection received Agency shall not fix/alter duty without Minister's approval;	D
para 5	Minister may hold local inquiry and may approve duty with or without modifications or may refuse to approve duty;	P
para 6	Where duty fixed/altered it shall not be altered/further altered for 12 months;	D
para 7	Agency may grant a temporary licence and may charge an appropriate duty;	P
para 8	In respect of a general licence such sum as may be agreed between the Agency and the Licensee shall be payable.	P
paras 9-14	Net etc. licences for salmon and trout fishing; Agency may consent to the use of instrument by licensees servant/agent.	P
para 15	A fishing licence shall be granted by the Agency to every applicant who is not disqualified, on payment of the appropriate duty.	D

SCHED 3	Agency may take proceedings in respect of any offence against this Act.	P
SCHED 4 para 5-9	<p>Offences; prosecution & punishment; procedure.</p> <p>Court may order forfeiture of fish illegally taken, any instrument used in the commission of an offence etc., the offender's fishing licence & may order offender to be disqualified;</p> <p>An authorised officer may seize any fish bought, sold or in the possession for sale of any person in contravention of this act; where anything perishable is seized it may be sold.</p>	P
SCHED 5	REPEALS	

E: DISEASE OF FISH ACT 1937
(as amended by the Diseases of Fish Act 1983)

SECTION	PROVISION	DUTY/POWER
1	Restriction on the importation of live fish & fish eggs.	-
2	Power of Minister to designate areas and to prohibit/regulate movement into/out of such areas.	P
2 A/B	Where Order in force under S.2 Minister may serve notice directing removal of dead/dying fish and may authorise removal of fish.	P/D
3	If Agency suspects any waters (other than a fish farm) to be infected, it must report this to the Minister and may take steps to remove dead dying fish; Minister may authorise Agency to remove fish from a designated area; any fish removed under these provisions to be destroyed by the Agency; Agency to make returns as directed.	D&P
4	A person who suspects waters are infected must report facts to Minister, or Agency if not a fish farm.	-
5	Agency may require an inspector to examine any waters to establish whether or not they are infected and to report findings; Agency may require further examinations.	P
6	Any person authorised by the Agency may enter onto land (other than a fish farm) in exercise of its functions under the Act.	P
8	Agency may take legal proceedings under the Act.	P
9	Power of Minister to make regulations. (Note: Diseases of Fish Regulations 1984 SI 1984/455 as amended by SI 1986/538).	-

F: SEA FISHERIES REGULATION ACT 1966

SECTION	PROVISION	DUTY/POWER
1	Establishment of sea fisheries districts & local fisheries Committees by Minister.	-
2	Constitution of local fisheries committee; Additional members of the Committee are to include one person appointed by the Agency; a local fisheries committee may appoint persons having knowledge/experience in marine environmental matters as further members for occasions when it is considering any proposed byelaw under S.5A.	D/P
5	Powers of local fisheries committee to make Byelaws.	P
5A	Power to make byelaws may be exercised for marine environmental purposes.	P
6-9	Byelaws not to affect Agency Byelaws; copies to be made available.	D
10-13	Power to appoint fishery officers (with various powers), to obtain a warrant, to stock any public fishery for shellfish, undertake destruction of predators, contribute to costs, enforce any sea fisheries legislation; Agency may appoint a LFC officer to be an officer of the Agency and vice versa.	P
14	Local Fisheries Committees to make returns to the Minister.	D
16	LFC may pay travelling expenses.	P
18	Minister may confer on Agency the powers of a LFC where a sea fisheries district has not been created; Agency to exercise these powers subject to the same conditions as if exercised by a LFC.	P/D

G: SALMON ACT 1986

SECTION	PROVISION	DUTY/POWER
31	Power for Minister/SS to prohibit dealing in salmon otherwise than under and in accordance with the licence and buying salmon from an unlicensed person, by way of Order (Order to be made by way of Statutory Instrument).	P
32	Offence to receive salmon or undertake/assist in its retention, removal or disposal at a time when a person believes or it would be reasonable for him to suspect that a relevant offence has been committed in relation to the salmon. Powers of search, entry etc. of water bailiffs applicable. Agency powers of enforcement.	P
37(1)	Power of Local Fisheries Committee to make Byelaws (see S.5 Sea Fisheries Regulations Act 1966) shall be exercisable for the purposes of protecting salmon and of preventing interference with their migration.	P
37(2)	Power of Local Fisheries Committee to make Byelaws which for the purposes of S.6 SFFA 1975 authorises placing and use of fixed engines in sea fisheries district and impose requirements as to construction, design etc. No byelaws to be made by Local Fisheries Committees under Section 37(1) or 37(2) unless Agency's consent obtained.	P P

SECTION 3: DUTIES AND POWERS [FORMERLY OF HER MAJESTY'S INSPECTORATE OF POLLUTION] UNDER:

A: ENVIRONMENTAL PROTECTION ACT 1990

Part I - Integrated Pollution Control (and Air Pollution Control by Local Authorities)

SECTION	PROVISION	DUTY/POWER
1	Series of definitions of central importance to the controls instituted by Part I; the enforcing authority is the Agency or local authority (LA).	-
2	S/S may by regulations prescribe processes and substances for local or central control.	-
3	S/S may by regulations establish standards, objectives or requirements in relation to particular prescribed processes or particular substances.	-
4	Provides for distinction between processes designated for central control and those designated for local control - central to the Agency, local to LA. Functions shall be exercised for purpose of preventing/minimising pollution of the environment due to release of substances into any environmental medium (central control) or into the air (local control); S/S may direct that 'local' functions should be exercised by Agency; Duty on LA to follow developments in technology and techniques to prevent/reduce pollution in relation to relevant process.	D

6	<p>Provides that a prescribed process may only be carried on by a person after a prescribed date if an authorisation has been granted and process is in accordance with its conditions.</p> <p>Agency/LA shall review conditions on authorisation not less than once every four years. (See Schedule 1 for mode of application, determination and variation of authorisations.)</p> <p>Application not granted unless considered applicant able to carry on process to comply with conditions (cf fit and proper person).</p>	D
7	<p>Deals with conditions to be imposed on authorisations and introduces the key concepts of BATNEEC and BPEO. Sets out objectives that in carrying on a prescribed process BATNEEC will be used to prevent release/minimise and render harmless prescribed substances so released (and render harmless other substances that might cause harm if released). Implied condition in every authorisation that BATNEEC to be used to achieve above. If central control and process likely to involve release into more than one environmental medium objective includes BATNEEC used for minimising pollution for the environment as a whole with regard to BPEO in respect of substances to be released. - Duty of Agency/LA to have regard to guidance issued by S/S as to techniques/environmental options.</p>	D D
8	<p>Provides LA with the ability to recover fees and charges for IPC/APC in accordance with Scheme made by S/S with Treasury approval.</p>	-
9	<p>Transfer of authorisation - on notice given by transferee to Agency/LA. No specific power to object to transfer.</p>	-
10	<p>Provides Agency/LA with power to vary authorisations by notice served on the holder of the authorisation. Duty to vary if appears that Section 7 would require different conditions to be imposed (eg BAT changed); power to vary a variation notice.</p>	D & P
11	<p>Stipulates the role the Agency plays when the authorisation holder applies to vary the authorisation.</p>	D & P

12	Provides Agency with the power to revoke an authorisation, both generally and in prescribed circumstances (eg where prescribed process not carried on for a period of 12 months).	P
13	Agency may serve enforcement notices either when conditions of an authorisation have been breached or when such a breach is anticipated. Mandatory contents of enforcement notice listed; Agency may withdraw notice.	P
14	Agency to serve a prohibition notice where there is an imminent risk of serious pollution of the environment. Mandatory contents of notice. Agency shall withdraw notice when satisfied that steps required have been taken.	D
15	Appeals procedure against refusal of grant of authorisation, its variation, its revocation or conditions attached. Appeal to S/S who may transfer jurisdiction under S.114 EA; Appeal may be by way of hearing (public or private) or S/S may hold local inquiry. In the case of an appeal against revocation, the revocation shall not take effect pending determination of appeal. In the case of an appeal against an enforcement, prohibition or variation notice, the bringing of appeal shall not suspend operation of notice.	-
16	REPEALED	
17	REPEALED	
18	REPEALED (see now S.109 EA)	
19	Power of S/S to require information from Agency about the discharge of its functions; power of Agency by notice to require information for the purpose of discharge of its functions.	P
20	Requires Agency/LA to maintain a public register in relation to the prescribed processes it regulates and stipulates what the register must contain. Duty of Agency/LA to make registers available for public inspection, etc.	D

21	No information to be included on register if, in opinion of S/S contrary to interests of national security. Duty on Agency to notify S/S of excluded information.	D
22	Provides that information which is commercially confidential shall not be included on register without consent of "affected" person/business subject to information identified by S/S which public requires to be included. Commercial confidentiality to be determined by Agency or, on appeal by S/S.	D
23	Creates the various offences under Part I and prescribes maximum penalties for their contravention.	-
24	Provides facility of proceedings in High Court as alternative remedy for non-compliance with an enforcement/prohibition notice where criminal action would afford an ineffectual remedy.	P
25	In proceedings for failure to comply with general condition in authorisation it is for accused to prove there was no better available technique not entailing excessive cost than that actually used.	-
26	Power of Court to order cause of offence to be remedied.	-
27	Provides Agency with power to remedy harm caused by the commission of certain offences and to recover the cost of any reasonable steps from the person or persons convicted. Requirement to obtain approval in writing of S/S (power not extended to LAs).	P

28	<p>Deals with the relationship between authorisations under Part I and other systems of statutory control: No condition to be attached to authorisation so as to regulate deposit on land of controlled waste. If prescribed process also regulated by Radioactive Substances Act 1993, and different obligations imposed in respect of the same matter under EPA and RSA, the condition attached by EPA authorisation shall be treated as not binding.</p>	
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cf: S.31 Clean Air Act 1993 - Regulations concerning sulphur content of oil fuel for furnaces or engines.
 S.31(4)(a): Regulations under S.31 do not apply to those furnaces already part of a process under Part I EPA 1990.

B: RADIOACTIVE SUBSTANCES ACT 1993

SECTION	PROVISION	DUTY/POWER
1	Definition of radioactive material by reference to Schedule 1. S/S empowered to vary the information in Schedule 1.	P
2	Definition of radioactive waste.	-
4	REPEALED	
5	REPEALED	
6/7	General requirements for registration of keepers or users of radioactive material; Applications for registration to be made to the Agency; on receipt Agency to send copy to LA; Agency may register applicant or refuse application; Agency may impose conditions on registration; Agency to have regard to amount & character of radioactive waste likely to arise; on registration Agency to issue certificate, copied to LA.	P D
8	Provides for exemptions from registration under S.6 & 7 (Nuclear Site Licences); Agency may direct exemption to have effect subject to conditions; S/S may grant further exemptions.	P
9/10	Requirement for registration of mobile radioactive apparatus; application to be made to Agency; Agency may register conditionally, unconditionally or may refuse application; on registration Agency to supply applicant with certificate, copied to LA.	P D
11	Provides for exemptions from registration under S.9 & 10.	-
12	Agency empowered to cancel/vary registrations made under S.7 or 10.	P

13	Prohibits disposal of radioactive waste except in accordance with authorisation.	-
14	Prohibits accumulation of radioactive waste except in accordance with authorisation.	-
15(1) 15(2)	Additional exemptions from S.13 & 14 (waste arising from clocks/watches and such descriptions of radioactive waste as the S/S may by order make).	P
16	Power to grant authorisations under S.13&14 exercisable by Agency; procedure for dealing with applications for authorisation; authorisations may be granted conditionally.	P
17	Agency empowered to vary or revoke authorisations made under S.13 & 14; procedure.	P
18	Makes provision as to the functions of public and local authorities in relation to authorisations for disposal under S.13; Agency to consult if disposal is likely to involve need for special precautions; Duty of local authority to accept and deal with any waste within the details of the authorisation.	D
19	Where a person is registered under S.7 or where authorisation granted under S.13 & 14, copies of registration/authorisation to be displayed on the relevant premises.	D
20	Agency may require retention and production of site or disposal records.	P
21	Power of Agency to serve enforcement notices relating to failure (or likely failure) to comply with conditions imposed on either S. 7 or 10 registrations or S.13 & 14 authorisations.	P

22	Power of Agency to serve prohibition notices if of the opinion that continuation of registered/authorised activity risks causing pollution of environmental/harm to human health. Agency may withdraw notice if satisfied that risk has been removed.	P
23	Power of S/S to give directions to Agency in relation to applications for registrations/authorisations and the serving of notices under S.21 or 22.	P
24	Power of S/S to require certain applications to be determined by him including provisions for holding local inquiry.	P
25	S/S may direct Agency that knowledge of certain information relating to any particular application, etc. should be restricted (on grounds of national security).	D
26	Details of right of appeal from decisions of Agency to the S/S re: registrations, authorisations, etc.	-
27	Sets out procedure for appeals under S.26	-
28	REPEALED	
29	Enables S/S to provide additional facilities (or arrange for their provision) for disposal and accumulation of radioactive waste.	P
30	Empowers Agency to dispose of radioactive waste on premises which are unoccupied, occupier is absent or insolvent.	P
31	REPEALED (see now S.108 EA)	

32	Creates offences for contravention of provisions of the Act, namely S.6, 9, 13(1), (2), (3), 14(1), and for failure to comply with conditions imposed on registrations/authorisations, or enforcement/prohibition notices; power of Agency to take proceedings in the High Court to secure compliance with enforcement/prohibition notices.	- P
33	Offences relating to S.19 & 20.	-
34	Offences relating to the disclosure of trade secrets.	-
34A	Offences of making false or misleading statements or false entries.	
35	REPEALED (see now S.110 EA)	-
36	Offences by bodies corporate.	-
37	Offences attributable to the fault of another.	-
38	Prosecutions not to be instituted except by S/S, the Agency, or DPP.	P
39(1) 39(2) 39(5)	Duty of Agency to keep records which should be made available to public (subject to trade secret exemption or on grounds of national security); Local Authority to keep and make available to public copies of documents sent to it under provisions of the 1993 Act; Public given right to inspect documents (which need not be in documentary form: S.39(4)) at all reasonable times and to be provided with copies upon payment of a reasonable fee.	D
40	Radioactivity to be disregarded for the purposes of certain statutory provisions.	-
42	The Crown, with certain exceptions, subject to the provisions of RSA 1993.	-
43	REPEALED (see now S.41 EA)	

44/45	S/S power to make regulations.	P
47	General interpretation.	-

Schedules

SCHED & PARA	PROVISION	DUTY/POWER
1	Specified elements to which Section 1 definitions apply.	-
2	REPEALED	
3	Enactments to which S.40 applies.	-
4-6	Consequential amendments, transitional provisions, repeals and revocations.	-

C: ALKALI. &c., WORKS REGULATION ACT 1906

SECTION	PROVISION	DUTY/POWER
1	Alkali works to be carried on so as to secure prescribed condensation levels of hydrochloric acid gas to the satisfaction of the Agency; corresponding offence provision.	P
2	Owner of Works to take steps to prevent escape of noxious gases, etc. & to render harmless discharged gases; no objection to be taken by the Agency to hydrochloric acid gas in the gases etc. discharged by a chimney where the amount of such acid gas does not exceed prescribed limit; corresponding offence provision.	D
2A	S.1 & 2 do not apply to any process which is a prescribed process for the purpose of EPA 1990.	
9	Alkali Works to be registered; registration to be effected on application, if conditions are complied with, particularly that the Works are furnished with such appliances as appear to the Agency to be necessary for health & safety purposes; any changes in ownership to be reported to the Agency; corresponding offence provisions.	P
22	S/S may, after inquiring into a complaint that any work is being carried on in contravention of this Act, direct proceedings to be taken by the Agency.	D
24A	Relation to EPA 1990 Part I.	

NB: Proceedings & Penalties for an offence under this Act are governed by HSAWA 1974, this Act being included among the "relevant statutory provisions" for which provision is made by the 1974 Act.

D.: HEALTH AND SAFETY AT WORK ETC. ACT 1974

NB: Agency to be regarded for the purposes of Part I of this Act as the enforcing authority in relation to the relevant enactments, namely the Alkali &c., Works Regulation Act 1906 and S.5 of the 1974 Act. (SCH.22, para 30 EA 1995)

SECTION	PROVISION	DUTY/POWER
2 - 9	General duties of Employers, self-employed persons, manufacturers, etc.;	-
5	Duty of persons having control of prescribed premises to use best practicable means to prevent emission of noxious substances & rendering harmless any substances so emitted.	
10 - 14	Role of the Health & Safety Commission and the Health & Safety Executive.	-
15 & 16	S/S/Minister may make H & S regulations and the H & S Commission may approve and issue Codes of Practice.	-
18	Enforcement of relevant statutory provisions; Agency responsible for enforcement of the relevant enactments (see nb. above).	D
19 & 20	Appointment of Inspectors.	-
21	Agency may serve an improvement notice if it is of the opinion that provisions of the relevant enactments are being contravened, requiring the contravention to be remedied within a specified period.	P
22	Agency may serve a prohibition notice in respect of any activities relating to the relevant enactments which it considers involve a risk of serious personal injury.	P
23 & 24	Supplemental provisions; duty to consult with fire authority in certain cases, power to withdraw notice, appeal provisions etc.	D&P

27	For the purpose of the discharge of its functions under this Act in relation to the relevant enactments the Agency may serve on any person a notice requiring information.	P
28	Restrictions on the disclosure of information.	-
33	Offences; including failure to comply with S.5, contravening any requirement or prohibition imposed by an improvement/prohibition notice, etc.; fines & imprisonment for offences.	-
38	Agency may institute proceedings for an offence under the relevant statutory provisions.	P
42	If a person is convicted of an offence the Court may order offence to be remedied.	-
48	Application to Crown.	-

SECTION 4: DUTIES AND POWERS [FORMERLY OF WASTE REGULATION AUTHORITIES] UNDER:

A: ENVIRONMENTAL PROTECTION ACT 1990

Part II - Waste on Land

SECTION	PROVISION	DUTY/POWER
29	Series of definitions of central importance to Part II.	-
30	References in this part to waste regulation authorities are references to the Agency.	-
31	REPEALED	
32	Provides for transition of waste disposal functions from disposal authorities to waste disposal contractors (see also Schedule 2). Duty on S/S to give directions to disposal authorities to transfer relevant part of undertakings to such companies.	D
33	Prohibits the deposit, treatment, keeping or disposal of controlled waste in/on land, or by means of mobile plant except under/in accordance with a waste management licence ("WML"). Creates offence of treating, keeping or disposing of controlled waste in manner likely to cause pollution of environment/harm to human health, plus offence to breach any condition on WML. S/S power to exclude certain deposits etc from licensing regime; defences to offences.	-

34	<p>Creates duty of care on importers, producers, carriers, keepers, treaters or disposers of controlled waste or brokers (who have control of such waste). It does not apply to occupiers of domestic property with regard to household waste produced on that property. S/S to issue code of practice under Section 34(7) setting out practical guidance on compliance; S/S may issue Regulations for the furnishing and retention of documents in order to comply with duties. Penalties listed. Agency supervisory body.</p> <p>NB¹: The Environmental Protection (Duty of Care) Regulations 1991 SI 1991/2839</p> <p>NB²: S.34(4A) inserted by the Deregulation and Contracting Out Act 1994 provides for the use of the single description to cover a series of transfers of waste.</p>	D
35	<p>Provides for the issue by the Agency of WMLs on such relevant terms and conditions as appear to the Agency to be appropriate. Duty of Agency to have regard to guidance issued by S/S; offence of making a false entry in any record required to be kept/forging a licence.</p> <p>NB: The Waste Management Licensing Regulations 1994 SI 1994/1056 as amended by SI 1994/1137.</p>	D & P
35A	<p>Where holder of licence is required by conditions of licence or by requirement imposed under S.38(9) to carry out works which he is not entitled to carry out and a person has granted rights to enable the work to be carried out, the grantor shall be entitled to be paid compensation by the licence holder; S/S may make regulations providing for the payment of compensation.</p>	

42	Requires Agency to take a supervisory role as to licences so as to ensure that pollution/harm/detriment do not occur and that conditions are complied with. Fall-back powers for the Agency to carry out necessary emergency work itself and recharge and, in the case of non-compliance with conditions, to serve a notice requiring compliance and in the event of a default to revoke/suspend the licence; alternatively Agency may take High Court proceedings if revocation/suspension of licence would afford an ineffectual remedy.	D & P
43	Appeals from Agency decisions to S/S (in respect of rejected applications, conditions of licence, suspension or revocation of licence, rejection of application to surrender/transfer licence); enables either party to request a hearing (private or public); position while appeal is pending.	P
44	Offences of making false or misleading statements or false entries.	-
44A	S/S to prepare a national waste strategy; S/S to consult Agency; S/S may require Agency to advise him on desired policies, to carry out a survey/investigation into kinds and quantities of waste, facilities for recovering/disposing of waste, etc. and to report findings; Agency to consult appropriate bodies before carrying out survey.	D
45-49	Collection of controlled waste, recepticals for household waste/commercial or industrial waste/waste recycling plans by collection authorities.	-
50	REPEALED	
51, 52 & 55	Functions of waste disposal authorities; payments for recycling and disposal of waste; powers of recycling waste.	

57	Power of S/S to give directions as to the acceptance, treatment, disposal or delivery of waste (supervisory power).	P
59	Gives Agency (amongst others) power by service of notices to deal with controlled waste which has been fly-tipped or otherwise unlawfully deposited, including power to take immediate action and to recover the costs incurred (in certain circumstances); offence and appeal provisions.	P
61	REPEALED	
62	Provision for regulations to be made by S/S dealing with "special waste".	-
63	Power of S/S to make regulations applying provisions of Part II EPA to mine and quarry wastes/ agricultural waste; a person who deposits/causes/permits deposit of waste which is not controlled waste but which if it were controlled waste would be special waste in a case where he would be guilty of an offence under S.33 if it were special waste shall be guilty of that offence.	P
64	Imposes a duty on Agency to keep registers relating to waste management licences, offences etc. Open to the public for free inspection/obtaining copies at a reasonable charge; Agency to furnish WCAs with details necessary to enable them to maintain a register under S.64(4).	D
65	Provides for information to be excluded from Section 64 register if (in view of S/S) contrary to interest of national security.	D

78YA	Power of S/S to issue guidance only to be exercised after consultation with Agency.	-
78YB	Interaction with other enactments, eg remediation notice not to be served if Agency may exercise powers under S.27; other restrictions on service of remediation notices.	D
78YC	These provisions not to apply where harm/pollution attributable to radioactivity (except as provided by regulations).	D

PART III - STATUTORY NUISANCES AND CLEAN AIR

PART IV - LITTER, ETC.

PART VI - GENETICALLY MODIFIED ORGANISMS

PART VII - NATURE CONSERVATION IN GREAT BRITAIN, ETC.

A: ENVIRONMENTAL PROTECTION ACT 1990

Part VIII - Miscellaneous

SECTION	PROVISION	DUTY/POWER
142	Provisions enabling S/S to make regulations requiring manufacturers, importers or suppliers of specified substances natural or artificial to provide information on those substances. This will enable evaluation of possible hazards to human health/ environment by use, storage or disposal of such substances.	P
143	REPEALED	

A: ENVIRONMENTAL PROTECTION ACT 1990

Part IX - General

SECTION	PROVISION	DUTY/POWER
156	General power of S/S to amend various parts of Act (including Part I - IPC/APC and Part II - Waste on Land and RSA 1993) by regulations to give effect to (i) any EC obligations and (ii) any obligation under an international agreement.	P
157	Offences by body corporate which proved committed with consent, connivance attributable to any neglect on part of director, manager, secretary or similar officer (or person purporting to act in any such capacity) will be guilty of offence as well as body corporate.	P
158	Permits action to be taken against persons whose acts/defaults result in the commission of certain offences by other persons whether or not proceeding taken against person committing offence.	P
159	Application to Crown.	-
160	Service of Notices.	-

SCHEDULES

SCHED & PARA	PROVISION	POWER/DUTY
SCHED 1 para 1-5	Procedure on applications for authorisations - application made to Agency; if applicant fails to supply required information Agency may refuse to proceed with application; Agency to give notice of application to prescribed consultees & consider representations made; S/S may require particular applications to be transmitted to him for determination; Agency to determine application within 4 months;	P&D
para 6-10	Procedure on variations of Authorisations - Agency to notify prescribed consultees and consider representations made; S/s may give directions to Agency requiring particular applications for variations to be transmitted to him for determination; S/S may hold local inquiry or afford parties an opportunity to be heard; S/S shall direct Agency whether to grant application and, if so, as to conditions to be attached.	
SCHED 2	Transfer of waste disposal functions from WDA to waste disposal companies.	-
SCHED 2A	Objectives for the purpose of the National Waste Strategy.	-
SCHED 2B	Categories of Waste; assigns to "waste" the meaning which it has in the Waste Framework Directive.	-
SCHED 3	Statutory nuisance - supplemental provisions.	-
SCHED 4	Abandoned trolleys.	-
SCHEDS 6-11	NCC and countryside matters.	-
SCHEDS 12-13	Hazardous substances; advisory committee.	-
SCHEDS 14-16	Amendments to legislation and repeals.	-

B: CONTROL OF POLLUTION (AMENDMENT) ACT 1989

SECTION	PROVISION	DUTY/POWER
1	Creates offence of transporting controlled waste in the course of business or otherwise with a view to profit without being a registered carrier. S/S has power to make regulations exempting certain persons from registration (see Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991).	P
2	Power of S/S to make regulations providing for implementation of registration, maintenance of registers etc.	P
3	Sets out grounds upon which the Agency may refuse to register applicant as carrier or revoke application already made.	P
4	Provides for appeals to the S/S where application for a registration refused/not disposed of within two months of submission/revocation of registration. Duty of Agency to comply with any direction made by S/S.	D
5	Power for police officer or officer of Agency to stop vehicles, ask for production of carriers registration certificate and to search vehicles and take samples. Offence to obstruct/fail to comply with request.	P
6	Power of Agency to obtain from JP a warrant for the seizure of vehicles used in unlawful disposal of controlled waste where Agency has been unable to ascertain details of the registered keeper. Power to detain and dispose of vehicle so seized (in accordance with regulations made by S/S). S/S power to make regulations concerning use of such powers (see Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991).	P

7	Further enforcement provisions; provisions of Section 71 EPA 1990 to have effect; failure to provide required information or to provide false or misleading information is an offence.	P
9	Interpretation section.	-

C: CONTROL OF POLLUTION ACT 1974

SECTION	PROVISION	DUTY/POWER
3	Prohibition of unlicensed disposal of waste; corresponding offence provisions; defences.	-
4	Supplementary provisions; duty of S/S to prescribe excepted cases.	D
5	Licences to dispose of waste; application for a disposal licence must be made to the Agency; where application received (& planning permission for the use is in force) Agency shall not refuse the application unless it is necessary to prevent pollution of waters or danger to public health; Agency to refer proposal to collection authority & consider any representations made; offence provisions for making false statements in the application.	D
6	Agency may issue licence subject to such conditions as it sees fit; duty of Agency to maintain a register of disposal licences, which should be open for inspection by public f.o.c. at reasonable hours etc.; if Agency does not issue a licence within two months it shall be deemed to have rejected the application.	P D
7	Subject to regulations, Agency may modify conditions of a consent either on its own initiative or on application of licence holder; duty of Agency to serve notice on licence holder modifying conditions if required to ensure no pollution/danger to health and as required by any regulations in force; requirement to consult as with S.5 unless modification will not affect the collection authority; where continuation of licensed activities would cause water pollution/danger to health etc. and it cannot be avoided by modifying conditions Agency must by notice revoke the licence.	P D

SECTION 5:

DUTIES AND POWERS [FORMERLY OF THE SECRETARY OF STATE] UNDER:

A: RADIOACTIVE SUBSTANCES ACT 1993

See Section 3 B page 68 above

[illegible]

B: WATER INDUSTRY ACT 1991
PART IV CHAPTER III - TRADE EFFLUENT

SECTION	PROVISION	DUTY/POWER
120	Where an undertaker receives an application for consent to discharge special category trade effluent into a public sewer, duty of undertaker to refer to Agency whether the discharges should be permitted and, if so, whether conditions should be imposed; Undertaker must not give consent before Agency serves notice of its determination; in default Agency may exercise its power of review under S.127 or 131.	P
123	Provision for appeal to DGWS with reference to discharges of special category effluent.	-
127	Power of Agency to review consents relating to special category effluent.	P
130	Where sewerage undertaker and owner/occupier of trade effluent are proposing to enter into an agreement under S.129 in respect, of the reception/disposal of special category effluent, duty of undertaker to refer to Agency; if undertaker enters agreement without reference to Agency, Agency may exercise its power of review.	P
131	Power of Agency to review agreements relating to special category effluent.	P
132	Procedure on references and reviews; Agency to consider representations made; on determining reference Agency to serve notice on undertaker and applicant; notice may vary/revoke provisions of previous notice, any consent or any agreement.	D&P
133	Duty of undertaker to secure compliance with Agency's notice; power of Agency to secure compliance.	P

134	Agency shall be liable to pay compensation in respect of any loss/damage sustained as a result of any notice under S.132 on a review carried out for protection of public health/flora & fauna and which would otherwise have been prohibited; exceptions to this liability;	.D
135A	Power of Agency to acquire by notice information for the purpose of its functions in relation to special category effluent; offence provisions.	P

C: SLUDGE (USE IN AGRICULTURE) REGULATIONS 1989

SECTION	PROVISION	DUTY/POWER
6	Sludge producers to prepare and maintain registers in connection with sludge productions and supplies.	-
7	Sludge producers to make register available for inspection by Agency and shall furnish Agency with information/facilities relating to the register, sludge supplies/production, etc. as required.	P
8	Sludge producers to notify Agency of the address and area of every dedicated site to which they supply sludge;	P
SCHED 2	Sludge producers to ensure testing of agricultural soil as prescribed; Agency may require soil testing where a period of 5 years has elapsed since last soil test.	P

SECTION 6: EC-DERIVED DUTIES AND POWERS

A: DESIGNATION AS COMPETENT AUTHORITY (OR EQUIVALENT)

EC DIRECTIVE TITLE	DIRECTIVE NO.	IMPLEMENTED INTO UK LEGISLATION BY:
Quality of surface water intended for the abstraction of drinking water	75/440	Surface Waters (classification) Regulations 1992 Water Supply (Water Quality) Regulations 1989 S.I. 1147
Methods of measurement and frequency of sampling and analysis of surface water intended for the abstraction of drinking water	76/869	
Quality of Bathing Water	76/160	Bathing Water (Classification) Regulations 1991 SI 1597; Direction & Notice 5/5/92
Pollution caused by certain dangerous substances discharged into the aquatic environment	76/1164 ('Framework Directive')	Surface Waters (Dangerous Substances) (Classification) Regulations 1989 SI 2286, amended by 1992 S.I. 1337; Direction & Notice 2/1/90 and 2/93; Environmental Protection (Prescribed Processes & Substances) Regulations 1991 S.I. 472; Trade Effluents (Prescribed Processes & Substances) Regulations 1989 S.I. 1156, amended by 1990 S.I. 1629
: mercury	82/176 84/156	
: cadmium	83/513	
: hexachlorocyclohexane	84/491	
: DDT, COL ₄ , PCP	86/280	
: 'drins', HCB, HCBd, CHCl ₃	88/347	
: EDC, TRI, PER, TCB	90/415	

Waste from the titanium dioxide industry	78/176 82/883 83/29 89/428 92/112	Circular 4/86 [Regs awaited under WRA'91, IPC and H&SWA'74]
Quality of freshwaters meeting protection or improvement in order to support fish life	78/659	DoE Advise Note (1979)
Quality required for shellfish waters	79/923	DoE Advise Notes (1/80, 11/80, 1/81)
Protection of groundwater against pollution caused by certain dangerous substances	80/68	Circulars 4/82, 20/90; Direction 2 Notice 19/06/92
Urban Waste Water Treatment	91/271	Urban Waste Water Treatment (England & Wales) Regulations 1994 S.I. 2841
Protection of waters against pollution caused by nitrates from agricultural sources	91/676	Nitrate Sensitive Areas (Designation) Order 1990 S.I. 1013, amended by Order 1990 S.I. 1187; Direction 27/1/92
Waste	75/442 ('Framework Directive') 91/156 D 94/3	Environmental Protection Act 1990; Controlled Waste Regulations 1992 S.I. 588; Circular 14/92; Waste Management Licensing Regulations 1994 S.I. 1056; Circular 11/94
Hazardous Waste	91/689 94/31	Control of Pollution (Special Waste) Regulations 1980 S.I. 1709 [due to be revised?]
Disposal of polychlorinated biphenyls and polychlorinated terphenyls	74/403	Environmental Protection Act 1990;[?]

Disposal of waste oils	75/439 87/101	Environmental Protection Act 1990; Collection and Disposal of Waste Regulations 1988 s.1. 819: Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991.
Supervision and control of shipments of waste within, into and out of the EC	R259/93	[Regulation directly applicable]; Transfrontier Shipment of Waste Regulation 1994 S.I. 1137; Circular 13/94; Transfrontier Shipment of Radioactive Waste Regulations 1993 S1 3031;
Protection of the environment and in particular of the soil, when sewage sludge is used in agriculture	86/278	Sludge (Use in Agriculture) Regulations 1989 S.I. 1263, amended by 1990 S.I. 880
Air quality limit values and guide values for sulphur dioxide and suspended particulars	80/779 [Shared with local authorities?]	Circular 11/81; Air Quality Standards Regulations 1989 S.I. 317 Environmental Protection Act 1990;
Air quality standards for nitrogen dioxide	85/203	Air Quality Standards Regulations 1989 S.I. 317; Environmental Protection Act 1990
Limit value for lead in the air	82/882	Air Quality Standards Regulations 1989 S.I. 317; Environmental Protection Act 1990

Combating of air pollution from industrial plants	84/360 ('Framework Directive')	Environmental Protection Act 1990; Environmental Protection (Prescribed Processes & Substances) Regulations 1991 S.I. 472; amended by 1991 S.I. 836; Circular 3/91
Limitation of emissions of certain pollutants into the air from large combustion plants	88/609	Environmental Protection Act 1990; Environmental Protection (Prescribed Processes & Substances) Regulations 1991 S.I. 472; Large Combustion Plant (New Plant) Directions 1991
Prevention of air pollution from new municipal waste incineration plants	89/369 89/429	Environmental Protection (Prescribed Processes & Substances) Regulations 1991 S.I. 472; amended by 1991 S.I. 836; Municipal Waste Incineration Directions 1991
Prevention and reduction of environmental pollution by asbestos	87/217	Control of Asbestos in the Air Regulations 1990 S.I. 556; Alkali etc. Works Regulation Act 1906; Water Resources Act 1991; Circular /89; Trade Effluent (Prescribed Processes and Substances) Regulations 1989 S.I. 1156; Environmental Protection Act 1990; Collection and Disposal of Waste Regulations 1988
Basic safety standards for the health of the general public and workers against the dangers of ionizing radiation.	80/836/Euratom 84/467/Euratom	Ionizing Radiation Regulations 1985 S.I. 1333; Radioactive Substances Act 1993

B: GENERAL OBLIGATIONS

EC DIRECTIVE TITLE	DIRECTIVE NO.	IMPLEMENTED INTO UK LEGISLATION BY:
Freedom of Access to Environmental Information	90/313	Environmental Information Regulations 1992 S.I. 3440
Common Procedures for the exchange of information on the quality of surface freshwaters	D/77/795, D/88/574, D/90/2, D/91/692	[Decision]
Standardising and rationalising the implementation of certain Directives relating to the environment	91/692	
Reciprocal exchange of information and data from networks and individual stations measuring air pollution	D/82/459	[Decision]
Assessment of the effects of certain public and private projects on the environment	85/337	Land Drainage (Improvement Works) (Assessment of Environmental Effects) Regulations 1988 S.I. 1217; Town & Country Planning (Assessment of Environmental Effects) Regulations 1988 S.I. 1199, amended by 1994 No. 677; Circular 15/88
Consistency of information on the state of the environment and natural resources of the community	D/85/338 ('CORINE')	[Decision]
European Environment Agency and the European environment information and observation network	R 1210/90	[Regulation]

SECTION 7: INTERNATIONAL TREATY - DERIVED DUTIES AND POWERS

TITLE	EFFECTIVE DATE	UK DIRECTION WORK UNDER TREATY
Convention for the prevention of marine pollution from land-based sources (Paris Convention) PARCOM	UK signed up in 1984. Commission signed up in 1988 in Lisbon. NRA started survey in 1990.	Annual Survey: 12 samples a year are taken on all main rivers in England & Wales, and major discharges of industrial and sewage effluent are also sampled. Determinands sampled are certain metals, a pesticide, nutrients & other general parameters.
Third North Sea Conference Declaration/Annex 1A	UK compiled list of 23 <u>most</u> hazardous substances in 1987. Third North Sea Conf. in The Hague (all countries involved in PARCOM , above) extended list to 36 substances. NRA started survey in 1990.	Annual Survey: 12 samples per year are taken for all 36 subs (except dioxins) on Annex 1A list. At the Third North Sea Conf. in the Hague (1990), it was agreed that, by 1995, a reduction of 70% should be made (between 1985 - 1995) for dioxins, mercury, cadmium and lead, and at least a 50% reduction for the other substances on the list.
Convention for the Protection of the Marine Environment in the North East Atlantic	Signed by E.U. & several member states (including the UK) in 1992. Became effective 1993.	This convention supercedes the Paris Convention (see above) and the Oslo Convention (Prevention of Marine Pollution by dumping from Ships & Aircraft - <u>not</u> under NRA remit). The monitoring requirements do not change, but this convention also covers air & transboundary pollution, which is covered by DoE monitoring stations along east coast of the UK.
Agreement for cooperation in dealing with Pollution of the North Sea by Oil (Bonn Agreement)	Agreement drawn up in 1969. New agreement to include E.U. drawn up in 1983.	Department of Transport.

Convention on long-range Transboundary Air Pollution (Geneva Convention).	Convention drawn up in 1979.	Carried out by DoE Air monitoring stations?
Convention for the Protection of the Ozone layer (Vienna Convention). Montreal Protocol (Protection of the Ozone layer).	1 Jan 1989, by Reg. 594/91 (EEC)	No national legislation is necessary to implement an EC Regulation, which is directly applicable to law. The Reg. places obligations directly on each CFC manufacturer. Regulator?
Convention on the Control of Transboundary movements of Hazardous wastes & their disposal (Basel Convention).	Feb. 1993 by Reg. 259/93.	Regulator?
Framework Convention on climate change (94/69/EC). Convention on Biological Diversity (93/626/EEC).		The Habitats Directive gives the EC competence for some aspects of the convention on Biological Diversity.

SECTION 8:**NATIONAL COMMITMENTS - DERIVED DUTIES AND POWERS**

TITLE	EFFECTIVE DATE	UK DIRECTION WORK UNDER TREATY
United Kingdom Environmental Change Network.	22 January 1992	The Network is operated by a consortium of sponsoring organisations and is managed on behalf of the consortium by the National Environment Research Council (NERC). The NRA is part of the consortium and has undertaken to support the initiative by providing sampling data for 7 primary sites and 6 secondary sites which have not been significantly affected by human activities and for which long-term time-series data already exists so they can be used for research and prediction.
Harmonised Monitoring Scheme	1974	227 sites across England and Wales, sampled 12x per year for approx 115 days (there are wide Regional variations to the no. of determinands sampled for)
UK National Monitoring Plan (NMP)	1987/88	NRA has responsibility for 46 national (in some instances shared with MAFF) off short sites, to be sampled for organics, nutrients, metals & physical measurements (taking water column samples, sediment samples, biological tissue samples, benthos & oyster embryo bioassay samples). The plan is intended to provide a framework for assessing the need for and the effects of national measures and provides a focus for improving standards in all marine contaminant monitoring.