

Principal statutes and statutory instruments

Water Industry Act 1991, s.118	Establishes rights for the occupier of any trade premises to discharge trade effluent to a public sewer with the consent of the sewerage undertaker. Discharge of trade effluent without a consent is an offence.
Water Industry Act 1991, s.119	Establishes the requirement for applications for consent to discharge trade effluent to be served upon the sewerage undertaker by the owner or occupier of the trade premises. Such notice to specify: the nature and composition of the effluent; the maximum quantity to be discharge in any day; and the highest rate of discharge.
Water Industry Act 1991, s.120	Requires the sewerage undertaker to refer applications for discharges containing <i>special category effluents</i> to the Environment Agency within 2 months of receiving the notice from the owner or occupier where the undertaker is minded to grant a consent. The consent cannot be given until the Environment Agency have served notice upon the undertaker specifying whether the discharge would be prohibited, or whether it would be permitted subject to specified conditions. Failure by the undertaker to refer an application for a consent that includes special category effluents to the Environment Agency is an offence.
Water Industry Act 1991, s.121	Allows the sewerage undertaker to grant either condition or unconditional consent to a discharge of trade effluent. The section also specifies the matters that can be included in conditions. Discharge of trade effluent in breach of conditions is an offence. Where a discharge without consent or in breach of conditions causes a sewage works to breach its consent under the Water Resources Act 1991, this may also be an offence under s.85 of the Act according to s.87 (see E key facts No.6).
Water Industry Act 1991, s.122, s.123 and s.126	Establishes rights of appeal to the Director General of Water Services for failure to consent, failure to consent within 2 months of an application or against any conditions imposed by the consent (s.122) or against variation of conditions under s.124 (s.126). S.123 specifies the appeal procedures where an effluent appears to contain a special category effluent.
Water Industry Act 1991, s.124 and s.125	S.124 allows the sewerage undertaker to vary the conditions of a consent but not within two years from the date of the consent or any variation, unless with agreement of the consent holder. Under s.125, the consent can be varied at any time without the consent of the holder providing that compensation is given or that the undertaker is satisfied that the variation is required as a result of changing circumstances (other than new consents issued) which could not reasonably have been foreseen at the time the consent conditions were set.
Water Industry Act 1991, s.127	Allows the Environment Agency to review any consents for discharges containing special category effluent at any time if this is for the purpose of protecting public health, flora and fauna or in connection with Community or international obligations.
Water Industry Act 1991, s.129	Allows the sewerage undertaker to enter into an agreement with the owner or occupier of a trade premises to treat, remove or dispose of substances produced at a trade premises. Where such agreement is reached, the sewerage undertaker can agree repayment of some or all of the costs incurred in carrying out the functions under the agreement. Where such an agreement is in place, it authorises the discharge of trade effluent. Under s.130 and s.131, the Environment Agency have powers in respect of assessing discharges containing special category substances and review of conditions in respect of effluents containing such substances (as in s.120 and s.127).
Water Industry Act 1991, s.132, s.133, s.134 and s.135	Establishes the procedures that the Environment Agency must follow in determining referral and reviews relating to special category effluents and gives powers to serve notice upon sewerage undertakers in respect of such effluents. Failure by a sewerage undertaker to perform anything required by a notice is an offence. Under s.134, where a notice is served in relation to special category effluents, the Environment Agency may be required to pay compensation in respect of loss or damage sustained in specified circumstances. S.135 establishes powers for the Environment Agency to serve notice upon a person requiring provision of information in respect of discharges of special category effluent. Failure to comply with a notice or furnishing false or misleading information is an offence.
Water Industry Act 1991, s.196 and s.206	Imposes a duty upon sewerage undertakers to maintain a public register of all trade effluent consents and agreements. The information in the register is limited to basic information and disclosure of information or in circumstances not specified in s.206 is an offence.

Criminal penalties and remedies

Water Industry Act 1991 s.118 and s.121	Discharging trade effluent to a public sewer without consent of the sewerage undertaker (s.118) or in breach of consent conditions (s.121) are offences punishable by a fine not exceeding £5,000 upon summary conviction and an unlimited fine upon conviction on indictment
Water Industry Act 1991 s.120, s.133, s.135	Failure by the sewerage undertaker to refer an application for consent to discharge special category effluent to the Environment Agency (s.120) or to fail to comply with a notice served by the Environment Agency (s.133) or providing false or misleading information (s.135) in respect of a notice are all offences punishable by a fine not exceeding £5,000 upon summary conviction and an unlimited fine upon conviction on indictment.
Water Industry Act 1991 s.210	Establishes that where an offence by a body corporate is committed with the consent, connivance or neglect of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer or any person who was purporting to act in any such capacity, then he shall also be guilty of that offence and

What are special category effluents?

Special category effluents are established under subordinate regulations as either effluents containing prescribed substances above background concentrations, or effluents deriving from a prescribed process involving the use of prescribed substances or the use of substances in quantities which exceed the prescribed amounts. The Trade Effluents (Prescribed Processes and Substances) Regulations 1989 (SI 1989/1156) and the Trade Effluents (Prescribed Process and Substances) Regulations 1992 (SI1992/339) prescribe 24 substances or groups of substances and 6 categories of process which are to be treated as special category effluents.

Prescribed substances	Prescribed processes
Mercury +, Cadmium + Gamma-Hexachlorocyclohexane Pentachlorophenol +, Hexachlorobenzene, Hexachlorobutadiene DDT Aldrin, Dieldrin, Endrin Fenitrothion PCBs Carbon tetrachloride, 1,2-Dichloroethane, Trichlorobenzene Dichlorvos Atrazine, Simazine Tributyl tin +, Triphenyl tin + Triflualin Azinphos-methyl, Malathion Endosulphan	Any process for the production of chlorinated organic chemicals. Any process for the manufacture of paper pulp. Any process for the manufacture of asbestos cement. Any process for the manufacture of asbestos paper or board. Any industrial process involving the use of in any 12 month period of more than 100 kilograms of the product resulting from the crushing of asbestos ore. Any process which occasions liquid discharges containing trichloroethylene or perchloroethylene in quantities of 30 kilograms per year or more.

+ signifies that substances include compounds of the substance

Where a trade effluent is produced by a process that is prescribed as a Part A process under Schedule 1 to the Environmental Permitting Regulations 2010 (see **E key facts No.2 and No.17**) it is not treated as a special category effluent under the Water Industry Act 1991 but is directly regulated under the permit for that process.

What conditions may be included in a consent

- The sewer or sewers into which the trade effluent may be discharged
- The nature and composition of trade effluent which may be discharged
- The maximum quantity which may be discharged on any one day
- The highest rate at which trade effluent may be discharged and the period or periods of the day when discharge may occur
- The exclusion from the trade effluent of all condensing water
- The elimination or diminution of substances which alone or in combination would injure or obstruct sewers or make treatment or disposal specially difficult or expensive or if discharged into a harbour or tidal water would cause or tend to cause injury or obstruction to the navigation on or the use of the harbour or tidal water
- The temperature, acidity or alkalinity of the trade effluent
- Conditions relating to the payment by the occupier of the trade premises for the reception and treatment of the effluent
- The provision and maintenance of an inspection chamber or manhole for sampling of effluent
- The provision, testing and maintenance of meters for measuring the flow, volume and the nature and composition of effluents discharged
- The keeping of records and making returns to the sewerage undertaker.

How are charges determined?

The sewerage undertaker charges for reception and treatment of trade effluent on the basis of the relationship between the average strength of the effluent and the average strength of foul sewage disposed of into the sewer. The charge is calculated generally according to the formula:

$$\text{Unit Charge (per m}^3\text{)} = R + V + \frac{\text{Ot B}}{\text{Os}} + \frac{\text{St S}}{\text{Ss}}$$

R = fixed volume charge for conveyance and reception
 V = volumetric and primary treatment charge
 Ot = organic measurement of trade effluent after 1 hour settlement (COD)
 Os = organic measurement of settled foul sewage (COD)
 B = biological oxidation charge
 St = suspended solids in trade effluent at pH 6.5 – 8.5
 Ss = total suspended solids in average crude sewage
 S = sludge treatment charge