

Principal statutes and statutory instruments

Water Resources Act 1991, s.82	Confers powers on SoS to prescribe a system of classifying controlled waters in relation to purposes the water is to be used for and the substances that are to be present in or absent from and their respective concentration limits. Controlled waters are defined under s.104 of the Act as being territorial waters (3 miles from the coast), coastal waters, inland freshwaters and groundwater.
Water Resources Act 1991, s.83	Confers powers on SoS to prescribe <i>water quality objectives</i> by notice for any waters, to review and vary those objectives and to consider representations or objections.
Environmental Permitting (England and Wales) Regulations 2010 (SI2010/675)	<p>These Regulations now require that certain water discharge activities are authorised by an Environmental Permit (see e key facts No.2).</p> <p>A water discharge activity is:</p> <ul style="list-style-type: none"> • the discharge or entry to certain waters of any poisonous, noxious or polluting matter, waste matter, trade effluent or sewage effluent • the discharge from land through a pipe into the sea of any trade effluent or sewage effluent • the removal of certain deposits from the bed of inland freshwaters • the cutting or uprooting of a substantial amount of vegetation in inland freshwaters and failure to take reasonable steps to remove the vegetation from the waters; or • the operation of a highway drain or a discharge of trade or sewage effluent into lakes or ponds which are not inland freshwaters where a notice in relation to the activity has taken effect. <p>Certain types of water discharge activity are capable of being exempt water discharge activities (see below). Sometimes a water discharge activity forms part of the operation of a regulated facility of another class (e.g. an installation). When it does not, it is referred to in this guidance as a 'stand-alone water discharge activity'. Some provisions of the Regulations apply only to stand-alone water discharge activities.</p> <p>Polluting matter means any substance liable to cause pollution; Pollution means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may—</p> <p>(a) be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems, (b) result in damage to material property, or (c) impair or interfere with amenities or other legitimate uses of the environment;</p>
Water Resources Act 1991, s.92	Confers powers on SoS to make regulations prohibiting a person from having custody of any poisonous, noxious or polluting matter unless prescribed works and precautions and other steps have been carried out. The regulations made under this section are the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 2010, SI 2010/639 and the Control of Pollution (Oil Storage) (England) Regulations 2001, SI 2001/2954 .
Water Resources Act 1991, s.100	General exclusion against rights to bring civil proceedings in respect of any contravention of the pollution provisions of the Act or subordinate regulations
Water Resources Act 1991, s.161	Entitles the Agency to undertake anti-pollution works and recover the expenses involved from the person who caused or knowingly permitted substances to be present or pollution to have occurred.
Water Resources Act 1991, s.161A and 161C	Confers powers on the Agency to serve a works notice upon persons requiring them to undertake anti-pollution works and operations. The form of the notice and general procedures are specified by the Anti-Pollution Works Regulations 1999, SI 1999/1006 . Appeal procedures to SoS are established under s.161C.
Exempt water discharge activities	Small sewage effluent water discharge activities are exempt from the requirement to operate under an Environmental Permit. This covers the means the discharge from a sewage treatment plant of 5 cubic metres per day or less of sewage effluent into inland freshwaters, coastal waters or relevant territorial waters.
Salmon and Freshwater Fisheries Act 1975	s.4 makes it an offence for any person to cause or knowingly permit any liquid or solid matter into waters containing fish to such an extent to cause the waters to be poisonous or injurious to fish or the spawning grounds, spawn or food of fish.
Urban Wastewater Treatment (England and Wales) Regulations 1994 SI 1994/2841	Regulation 8 imposes a duty on the Agency to secure that direct discharges to controlled waters on and after 31st December 2000 of biodegradable industrial waste water from the industrial sites representing 4,000 population equivalents or more from sectors listed in Schedule 5 are subject to conditions appropriate to the nature of the industry concerned. Conditions may apply to either discharges consented under the Environmental Permitting Regulations 2010.

Criminal penalties and remedies

Environmental Permitting Regulations	For offences and penalties see e key facts No.2
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Salmon and Freshwater Fisheries Act 1975	Persons committing offences under s.4 are liable on summary conviction to a fine not exceeding £5,000 or to conviction upon indictment to an unlimited fine and/or two years imprisonment.

What is a water discharge activity environmental permit?

An environmental permit is a legal instrument which permits the discharge of noxious, offensive, polluting or any solid matter that acts as a defence against what otherwise would be an offence under the Environmental Permitting Regulations to naturally occurring surface water environments. Environmental permits may also be required for groundwater discharge activities (see e key facts No.7).

Applications generally must be advertised and there are various consultees who the Agency are required to consult before determining an application. The Agency must determine the application within 4 months, otherwise it is deemed to have been refused. The permit may contain any conditions that the Agency consider appropriate, including the place(s) of discharge, the nature, composition and rate of discharge, monitoring facilities, records and returns to the Agency. A permit can be issued without application at the discretion of the Agency.

The Agency may review the conditions of a permit and may alter or revoke a permit at any time, but may be liable to pay compensation if it revokes or alters a consent generally within 4 years of the date of the permit. A permit holder may apply to the Agency for a variation of the conditions. They may also transfer a permit to another person providing that they notify the Agency within 21 days of the transfer taking place. There are fees for both an application and annual subsistence charges.

A discharge containing or likely to contain prescribed dangerous substances is subject to particularly tight scrutiny procedures and there is a presumption against issuing a permit. If a permit is given, it will be subject to low limits on the concentration of dangerous substances. Any permit issued must not result in the water quality in the receiving water exceeding the concentration limits below.

What are the Dangerous Substances?

The Surface Waters (Dangerous Substances)(Classification) Regulations of 1989, 1992, 1997 and 1998 identify the following substances as being prescribed dangerous substances for inland waters (IW) and coastal waters (CW) and establish the relevant water quality objective concentration limits:-

Substance	Concentration (µg/l) annual mean		Substance	Concentration (µg/l) annual mean	
	IW	CW		IW	CW
Aldrin or Dieldrin Endrin or Isodrin	0.01 0.005	0.01 0.005	Cadmium and its compounds	5 (total)	2.5(dissolved)
Carbon tetrachloride or Chloroform	12	12	DDT (all isomers)	0.025	0.025
<i>para-para</i> -DDT	0.01	0.01	Hexachlorobenzene	0.03	0.03
Hexachlorobutadiene	0.1	0.1	Hexachlorocyclohexane (all isomers)	0.1	0.02
Mercury and its compounds (total)	1	0.3	Pentachlorophenol and its compounds	2	2
1,2-Dichloroethane or Trichloroethylene	10	10	Trichlorobenzene	0.4	0.4
Arsenic	50	25	Atrazine and Simazine (total of both) or Linuron	2	2
Azinphos-methyl	0.01	0.01	Dichlorovos	0.001	0.04
Endosulphan	0.003	0.003	Fenitrothion	0.01	0.01
Malathion	0.01	0.02	Trifluralin	0.1	0.1
Tributyltin (any sample)	0.02	0.002	Triphenyltin and its derivatives (any sample)	0.02	0.008
4-Chloro-3-methyl phenol	40	40	2-Chlorophenol	50	50
2,4-Dichlorophenol or Mecoprop	20	20	2,4-D (ester) Non-ester	1 40	1 40
1,1,1-Trichloroethane	100	100	1,1,2-Trichloroethane	400	300
Bentazone	500	500	Biphenyl	25	25
Chloronitrotoluenes	10	10	Demeton	0.5	0.5
Dimethoate	1	1	Napthalene	10	5
Omethoate	0.01	-	Toluene	50	40
Triazaphos	0.005	0.005	Xylene	30	30

What sectors are subject to the Urban Wastewater Treatment Regulations where direct discharges of biodegradable effluents are concerned?

Under Schedule 5 (Regulation 8 of the Urban Wastewater Treatment (England and Wales) Regulations 1994 SI 1994/2841), the following sectors may be subject to conditions in respect of any discharges under made under the Water Resources Act 1991 or Pollution Prevention and Control Act 1999.

1. Milk processing.
2. Manufacture of fruit and vegetable products.
3. Manufacture and bottling of soft drinks.
4. Potato processing.
5. Meat industry.
6. Breweries.

7. Production of alcohol and alcoholic beverages.
8. Manufacture of animal feed from plant products.
9. Manufacture of gelatine and of glue from hides, skin and bones.
10. Malt-houses.
11. Fish-processing industry.