

Changes to Legislation: as of 14 June 2024, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries [here](#). Note that some amendments may not be in force until commenced by a commencement order or other provision.



Number 1 of 1977

LOCAL GOVERNMENT (WATER POLLUTION) ACT 1977

REVISED

Updated to 14 October 2021

This Revised Act is an administrative consolidation of the *Local Government (Water Pollution) Act 1977*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Climate Action and Low Carbon Development (Amendment) Act 2021 (32/2021)*, enacted 23 July 2021, and all statutory instruments up to and including the *Water Services (No. 2) Act 2013 (Property Vesting Day) (No. 2) Order 2021 (S.I. No. 533 of 2021)*, made 14 October 2021, were considered in the preparation of this Revised Act.

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Number 1 of 1977

LOCAL GOVERNMENT (WATER POLLUTION) ACT 1977

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ARRANGEMENT OF SECTIONS

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ACTS REFERRED TO

Foreshore Act, 1933	1933, No. 12.
Harbours Act, 1946	1946, No. 9.
Shannon Electricity Act, 1925.	1925, No. 26.
Liffey Reservoir Act, 1936.	1936, No. 54.
Arterial Drainage Act, 1945.	1945, No. 3.
Electricity (Supply) (Amendment) Act, 1945.	1945, No. 12.
Turf Development Act, 1946.	1946, No. 10.
Local Authorities (Works) Act, 1949.	1949, No. 17.
Local Authorities (Combined Purchasing) Act, 1939	1939, No. 14.
Local Government (Superannuation) Act, 1956	1956, No. 10.
Companies Act, 1963	1963, No. 33.
Rivers Pollution Prevention Act, 1876	1876, c.75.
Rivers Pollution Prevention Act, 1893	1893, c.31.
Fisheries (Consolidation) Act, 1959	1959, No. 14.



Number 1 of 1977

LOCAL GOVERNMENT (WATER POLLUTION) ACT 1977

REVISED

Updated to 14 October 2021

AN ACT TO PROVIDE FOR THE CONTROL OF WATER POLLUTION AND FOR OTHER MATTERS CONNECTED WITH WATER POLLUTION. [15th March, 1977]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1. — (1) In this Act—

“agriculture” includes the breeding, keeping and sale of livestock (including pigs, poultry and any creature kept for the production of food, wool, skins or fur) and the making and storage of silage;

F1[“aquifer” means any stratum or combination of strata that stores or transmits groundwater;]

“board of conservators” means a board of conservators under the Fisheries Acts, 1959 to 1976, and includes the Foyle Fisheries Commission;

F1[“combined drain” means a drainage pipe, or a system of such pipes, that is not vested in or controlled by a sanitary authority and is used to convey trade effluent or other matter (other than storm water) from two or more premises to any waters or to a sewer;]

“fish” has the same meaning as in the Fisheries Acts, 1959 to 1976;

F1[F2[...]]

“licence”, in relation to licences under section 4 or 16, includes, where the context permits, such a licence revised under section 7 or 17;

“local authority” (except in section 25 (5) (b)), means—

(a) F3[...]

(b) F3[...]

(c) in the case of a county borough, the corporation of the county borough, and

(d) in the case of any F3[...] administrative county, the council of the county,

and, where the context permits, includes a water quality control authority established under section 25, and references to the functional area of a local authority shall be construed accordingly;

“marine structure” means a platform or other man-made structure at sea;

“the Minister” means the Minister for Local Government;

“monitoring” includes inspection, measurement, sampling or analysis, whether periodically or continuously;

“polluting matter” includes any poisonous or noxious matter, and any substance (including any explosive, liquid or gas) the entry or discharge of which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish, or to injure fish in their value as human food, or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish or to render such waters harmful or detrimental to public health or to domestic, commercial, industrial, agricultural or recreational uses:

“premises” includes land, whether or not there are structures on the land;

F1[F2[...]]

“reserved function” means, in the case of the council of a county F3[...], a reserved function for the purposes of the County Management Acts, 1940 to 1972, or, in the case of the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough;

“sanitary authority” means a sanitary authority for the purposes of the Local Government (Sanitary Services) Acts, 1878 to 1964;

“sewage” includes domestic sewage and a combination of domestic sewage and storm water;

“sewage effluent” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to waters of sewage, whether treated or untreated;

F1[“sewer” means a sewer within the meaning of the Local Government (Sanitary Services) Acts, 1878 to 1964, that is vested in or controlled by a sanitary authority and includes a sewage treatment works, and a sewage disposal works, that is vested in or controlled by a sanitary authority;]

“tidal waters” includes the sea and any estuary up to high water mark medium tide and any enclosed dock adjoining tidal waters;

“trade” includes agriculture, aquaculture, horticulture and any scientific research or experiment;

“trade effluent” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to waters or to a sewer of any liquid (whether treated or untreated), either with or without particles of matter in suspension therein, which is discharged from premises used for carrying on any trade or industry (including mining), but does not include domestic sewage or storm water;

“vessel” means a waterborne craft of any type, whether self-propelled or not, and includes an air-cushion craft;

“waters” includes—

- (a) any (or any part of any) river, stream, lake, canal, reservoir, aquifer, pond, watercourse or other inland waters, whether natural or artificial,
- (b) any tidal waters, and
- (c) where the context permits, any beach, river bank and salt marsh or other area which is contiguous to anything mentioned in paragraph (a) or (b), and the channel or bed of anything mentioned in paragraph (a) which is for the time being dry,

but does not include a sewer.

(2) In this Act a reference to a section is to a section of this Act unless it is indicated that reference to some other enactment is intended.

(3) In this Act a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Water Pollution
Advisory Council.

2. — F4[...]

General
prohibition on
entry of polluting
matter to waters.

3. — (1) Subject to subsection (5), a person shall not cause or permit any polluting matter to enter waters.

F5[(2) A person who contravenes subsection (1) commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €15,000,000 or imprisonment for a term not exceeding 5 years, or both.]

F6[(3) It shall be a defence to a charge of committing an offence under this section for the accused to prove that he took all reasonable care to prevent the entry to waters to which the charge relates by providing, maintaining, using, operating and supervising facilities, or by employing practices or methods of operation, that were suitable for the purpose of such prevention, and, where appropriate, that the entry to waters to which the charge relates arose from an activity carried on in accordance with a nutrient management plan approved under section 21A (inserted by the Waste Management Act, 1996) of the Local Government (Water Pollution) (Amendment) Act, 1990.]

(4) F7[...]

(5) Subsection (1) does not apply to—

F8[(a) (i) a discharge of a trade effluent or a sewage effluent which is made under and in accordance with a licence under section 4;

(ii) a discharge of a sewage effluent from a sewer: Provided that, where a standard applying to the effluent stands prescribed under section 26, the discharge complies with that standard;

(iii) a discharge of a trade effluent or sewage effluent to which regulations under section 4 (10) apply: Provided that, where a standard applying to the effluent stands prescribed under section 26, the discharge complies with that standard;

(aa) any entry authorised by or under an enactment specified in the Table to subsection (6);]

(b) entry to tidal waters of any matter from vessels, from apparatus for transferring any matter to or from vessels, or from marine structures;

(c) any deposit authorised under section 3 or 13 of the Foreshore Act, 1933, or section 48 of the Harbours Act, 1946;

(d) any substance or thing authorised under section 88 of the Harbours Act, 1946, to be put into waters;

(e) any works authorised by an order under section 134 of the Harbours Act, 1946;

(f) any entry authorised under the Fisheries Acts, 1959 to 1976.

(6) F7[...]

TABLE

Section 16 of the Shannon Electricity Act, 1925.

Section 16 of the Liffey Reservoir Act, 1936.

Section 10 of the Arterial Drainage Act, 1945.

Section 11 of the Electricity (Supply) (Amendment) Act, 1945.

Section 27 of the Turf Development Act, 1946.

Section 6 of the Local Authorities (Works) Act, 1949.

Licensing of trade
and sewage
effluents.

4. — (1) (a) Subject to subsection (2), a person shall not, after such date as may be fixed for the purpose of this subsection by order made by the Minister, discharge or cause or permit the discharge of any trade effluent or sewage effluent to any waters except under and in accordance with a licence under this section.

(b) A licence under this section may be granted—

(i) in the case of a discharge to waters in the functional area of a local authority, by that local authority, and

(ii) in any other case, by a local authority in whose functional area any premises, works, apparatus, plant or drainage pipe from which the effluent is discharged is situated.

F9[(c) In this subsection a discharge to waters includes a discharge from a septic tank or other waste water treatment system to a percolation area or to soil.]

(2) Subsection (1) does not apply to discharges—

(a) to tidal waters from vessels or marine structures,

(b) from a sewer, or

(c) the subject of regulations under subsection (10).

(3) (a) A local authority may at its discretion refuse to grant a licence under this section or may grant such a licence subject to such conditions as it thinks appropriate and specifies in the licence.

(b) In considering whether or not to grant a licence under this section a local authority shall have regard to the objectives contained in any relevant plan under section 15.

(4) A local authority shall not grant a licence under this section in respect of the discharge of an effluent which would not comply with, or would result in the waters to which the discharge is made not complying with, any relevant standard prescribed under section 26.

(5) Without prejudice to the generality of subsection (3), conditions attached to a licence under this section may—

(a) relate to—

(i) the nature, composition, temperature, volume, rate, method of treatment and location of a discharge, the periods during which a discharge may be made or may not be made, the effect of a discharge on receiving waters and the design and construction of outlets for a discharge;

(ii) the provision and maintenance of meters, gauges, other apparatus, manholes and inspection chambers;

(iii) the taking and analysis of samples, the keeping of records and furnishing of information to the local authority;

(iv) the prevention of a discharge in the event of breakdown in plant;

(b) require defrayment of or contribution towards the cost incurred by the local authority in monitoring a discharge,

(c) specify a date not later than which any conditions shall be complied with, and

(d) require the payment to the local authority which granted the licence of a charge or charges prescribed under, or calculated in accordance with the method prescribed under, section 6 (2) (e).

(6) Any conditions attached to a licence under this section shall be binding on any person discharging, or causing or permitting the discharge of, effluent to which the licence relates.

(7) Where after three years from the date on which a licence under this section is granted no discharge of the type authorised by the licence has been made, or where such a discharge has ceased for a period of three years, the licence shall cease to have effect.

F10[(8) A person who contravenes subsection (1) commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €15,000,000, or imprisonment for a term not exceeding 5 years, or both.]

(9) F11[...]

(10) The Minister may, after consultation with the Minister for Fisheries and the Water Pollution Advisory Council, by regulations exempt from subsection (1) such effluent or classes of effluent as he specifies in the regulations, including effluent or classes of effluent discharged to specified or specified classes of waters or to waters in specified areas or to waters specified by reference to their use.

(11) It shall be a good defence to a prosecution for an offence under any enactment other than this Act that the act constituting the alleged offence is authorised by a licence under this section.

(12) A person shall not be entitled solely by reason of a licence under this section to discharge, or cause or permit the discharge of, trade effluent or sewage effluent to waters.

Provisions consequential on section 4.

5. — (1) A person shall be deemed not to have contravened section 4 (1) in relation to an existing discharge of trade effluent or sewage effluent made before he is granted or refused a licence under section 4 if, before the relevant date, he applies for such a licence and complies with the requirements of any regulations under section 6 regarding the furnishing of information to a local authority.

(2) In a prosecution for an offence under section 4 it shall be presumed, until the contrary is shown by the person charged, that the discharge concerned is not an existing discharge of trade effluent or sewage effluent made in the circumstances specified in subsection (1).

(3) Where regulations under section 26 relate to an existing discharge of trade effluent or sewage effluent being made in the circumstances specified in subsection (1) or to waters to which such discharge is being so made, the local authority concerned shall grant or refuse (as the case may require) a licence under section 4 in respect of the discharge as soon as may be after the regulations are made.

(4) In this section—

“ existing discharge ” means a discharge which is similar in nature, composition and temperature to, and is of a similar volume and is made at a similar rate to, a discharge made during any corresponding period in the period of twelve months ending on the relevant date;

“ relevant date ” means the date fixed by order under section 4 (1).

Regulations for
the purpose of
section 4 and 8.

6. — (1) The Minister may make regulations for the purpose of sections 4 and 8.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision for all or any of the following:

(a) the form of licence;

(b) requiring the furnishing by applicants of specified information or the publication of notices;

(c) requiring the production of evidence to verify any information given by an applicant;

(d) requiring local authorities to furnish to the Minister and to any other specified persons any specified information in relation to any applications and the manner in which they have been dealt with, or to publish any specified notices in relation to applications for, and the granting or refusing of, licences;

(e) prescribing charges for, or the method of calculation of charges for, the discharge of effluents or classes of effluents;

F13[(f) requiring an applicant to defray or contribute towards the cost of investigation carried out by a local authority in relation to an application;

(g) the oral hearing of any appeal to An Bord Pleanála and any such oral hearing conducted by it or by a person appointed for that purpose by it;

(h) procedural matters in relation to appeals;

(i) related ancillary and incidental matters.]

F14[(2A) Regulations under this section may make provision for—

(a) the payment to a local authority of a fee of such amount as may be specified in respect of an application to it for a licence under section 4, and

(b) F15[...]

(2B) Where, pursuant to regulations under this section, a fee is payable to a local authority in respect of an application for a licence under section 4, the local authority shall not entertain the application unless the fee is received by the local authority.

(2C) Where, pursuant to regulations under this section, a fee is payable to An Bord Pleanála in respect of an appeal under section 8, the appeal shall not be entertained unless the fee is received by An Bord Pleanála before the expiration of the prescribed period referred to in subsection (1) of that section.

(2D) Where, pursuant to regulations under this section, a fee is payable to An Bord Pleanála in respect of an appeal under section 8 and the person by whom the fee is payable is neither the applicant for the licence to which the appeal relates nor the person or one of the persons who brought the appeal, An Bord Pleanála shall not entertain submissions or observations in relation to the appeal made by or on behalf of the person by whom the fee is payable unless the fee is received by An Bord Pleanála.

(2E) Where, pursuant to regulations under this section, a fee is payable to An Bord Pleanála in respect of a request for the oral hearing of an appeal, An Bord Pleanála shall not consider the request unless the fee is received by An Bord Pleanála.]

F16[(3) (a) A person who, in relation to an application for a licence under section 4 or an appeal under section 8, when—

(i) furnishing information under this section, or

(ii) verifying any such information,

makes a statement in writing which is false or to such person's knowledge misleading in a material respect commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(b) Where a person is convicted of an offence under this subsection, any licence issued to that person consequent on the application or appeal in relation to which the information was furnished shall stand revoked from the date of the conviction.

(4) A charge the payment of which is required under section 4 (5) (d) or a defrayment or contribution under subsection (2) (f) or section 4 (5) (b) shall be payable on demand and, in default of being so paid, shall be recoverable as a simple contract debt in a court of competent jurisdiction.

(5) F17[...]

Review of licence
under section 4.

7. — (1) A local authority may review a licence under section 4 at intervals of not less than three years from the date of the licence or the last review of the licence, or at any time with the consent of the person making, causing or permitting the discharge.

F18[(2) Notwithstanding any other provision of this Act or any condition in a licence under section 4, any such licence may be reviewed at any time by the local authority that granted it if—

(a) the local authority has reasonable grounds for believing that the discharge authorised by the licence is or is likely to be injurious to public health or renders or is likely to render the waters concerned unfit for use for domestic, commercial, industrial, fishery (including fish-farming), agricultural or recreational uses,

(b) there has been a material change in the nature or volume of the discharge,

(c) there has been a material change in relation to the waters to which the discharge is made,

(d) further information has become available since the date of the granting of the licence relating to polluting matter present in the discharge concerned or relating to the effects of such matter, or

(e) the licensee applies to the local authority concerned to review the licence.

(2A) Notwithstanding any other provision of this Act or any condition in a licence under section 4, where regulations are in force under section 26 such a licence relating to an effluent or waters to which the regulations apply shall be reviewed by the local authority that granted it—

(a) in case it was in force before the commencement of the regulations, as soon as may be after such commencement and thereafter at such intervals as may be specified in the regulations, and

(b) in any other case, at such intervals as may be specified in the regulations.

(3) Upon completion of a review under this section, a local authority may amend or delete any condition of the licence or attach conditions or additional conditions to the licence or revoke the licence; and if the local authority proposes to exercise a power aforesaid, it shall do so as soon as may be after the completion of the relevant review under this section.]

(4) (a) The Minister may make regulations for the purpose of this section.

(b) Without prejudice to the generality of paragraph (a), regulations under this subsection may make provision in relation to all or any of the following matters:

- (i) the giving of notice by a local authority to a person discharging or causing or permitting a discharge of intention to review a licence,
- (ii) requiring a statement in such a notice that representations relating to the review may be made within a specified period, and
- (iii) requiring local authorities to publish any specified notices with respect to amendment or deletion of any condition attached, or attachment of new conditions, to a licence.

F19[(c) Without prejudice to the generality of paragraph (a), regulations under this subsection may also make provision in relation to any of the following matters:

- (i) the payment to local authorities of fees of such amounts as may be specified in the regulations in relation to reviews of licences,
- (ii) the payment of fees of different amounts in respect of different classes of such reviews as aforesaid,
- (iii) exemption from the payment of such fees in such circumstances as may be specified,
- (iv) the waiver, remission or refund (in whole or in part) of such fees in such circumstances as may be specified, and
- (v) the manner in which such fees may be disposed of.]

F20[(5) Where, pursuant to regulations under this section, a fee is payable to a local authority, the local authority shall not conduct the review in relation to which it is payable until the receipt thereof by the local authority.]

Appeals in
relation to
sections 4 and 7.

F21[8.—(1) (a) A person may, before the expiration of such period as may be prescribed, appeal to An Bord Pleanála in relation to—

- (i) the grant, refusal to grant or revocation of a licence under section 4,
- (ii) the attachment of conditions or additional conditions to such a licence,
or
- (iii) the amendment or deletion of any condition attached to such a licence,
by a local authority.

(b) An act of a local authority referred to in paragraph (a) shall have effect—

- (i) in case an appeal is not brought against it, upon the expiration of the period referred to in paragraph (a),
- (ii) in case an appeal is brought against it and the final determination of the appeal does not set the act aside, in accordance with such final determination,

(iii) in case an appeal or appeals is or are brought against it and the appeal or appeals is or are withdrawn—

(I) if the period referred to in paragraph (a) has expired, upon such withdrawal, and

(II) if the period aforesaid has not expired, upon its expiry.

(2) An Bord Pleanála, after consideration of an appeal under this section, shall (as it thinks proper) allow or refuse the appeal and may give any direction consequent on its decision that it considers appropriate to the local authority concerned (including a direction that a specified condition be attached to the licence concerned or be amended or deleted) and a local authority shall comply with any such direction.]

Registers of licences under sections 4 and 16 and of water abstractions.

9. — (1) Each local authority shall cause to be established and kept a register of all licences under section 4 granted by it.

(2) Each local authority shall cause to be established and kept a register of abstractions from waters in its functional area.

(3) Each sanitary authority shall cause to be established and kept a register of all licences under section 16 granted by it.

(4) A register under this section shall be kept at the offices of the local authority or sanitary authority and shall at all reasonable times be open to inspection by any person.

(5) Any person shall be entitled to obtain from a local authority or sanitary authority a copy of any entry in a register under this section on payment of a prescribed fee.

(6) Every document purporting to be a copy of an entry in a register under this section and purporting to be certified by an officer of a local authority or sanitary authority to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he was such officer, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry.

(7) The Minister may make regulations for the purpose of this section.

(8) Without prejudice to the generality of subsection (7), regulations under this section may provide that specified classes of abstractions shall be exempt from subsection (2).

Provisions relating to certain contraventions under Act.

F23[10.—(1) (a) Where, on application by any person to the appropriate court, whether or not the person has an interest in the waters concerned, that court is satisfied that another person—

(i) is causing or permitting, or has caused or permitted, polluting matter to enter waters and the entry is or was not one to which section 3 (5) applies and is or was not under and in accordance with a licence under section 171 of the Act of 1959, or

(ii) is discharging or causing or permitting to be discharged, or has discharged or caused or permitted to be discharged, trade effluent or sewage effluent to waters and the discharge is or was not one to which subsection (2) of section 4 applies and is or was not under and in accordance with a licence under that section or the said section 171,

that court may make an order directing that other person to do one or more of the following, that is to say:

(I) to terminate the entry or discharge within such period as may be specified in the order, or

- (II) to mitigate or remedy any effects of the entry or discharge concerned in such manner and within such period as may be specified in the order, or
- (III) to pay to the applicant or such other person as may be specified in the order a specified amount to defray all or part of any costs incurred by the applicant or that other person in investigating, mitigating or remedying the effects of the entry or discharge concerned.
- (b) In this subsection ‘appropriate court’, in relation to an application under paragraph (a) means—
- (i) in case the estimated cost of complying with the order to which the application relates does not exceed F24[€15,000], the District Court,
- (ii) in case the estimated cost aforesaid does not exceed F25[€75,000], the Circuit Court, and
- (iii) in any case, the High Court.
- (c) (i) If, in relation to an application under this section to the District Court, that court becomes of opinion during the hearing of the application that the estimated cost aforesaid will exceed F24[€15,000], it may, if it so thinks fit, transfer the application to the Circuit Court or the High Court, whichever it considers appropriate having regard to the estimated cost aforesaid.
- (ii) If, in relation to an application under this section to the Circuit Court, that court becomes of opinion during the hearing of the application that the estimated cost aforesaid will exceed F25[€75,000], it may, if it so thinks fit, by order transfer the application to the High Court.
- (iii) This paragraph is without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an application under this section in relation to which it was, at the time of the making of the application, the appropriate court.
- (d) An application under this section shall be brought in a summary manner.
- (e) A court may, if it so thinks fit, make such interim or interlocutory order as it considers appropriate in proceedings under this section and, where an application is transferred under paragraph (c), the court to which it is transferred shall be deemed to have made any order made under this paragraph by the court from which it is so transferred in the proceedings in relation to the application.
- F26[(2) Without prejudice to any power of a court to enforce orders made by it, a person who does not comply with an order under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]
- (3) (a) An order shall not be made by a court under this section unless the person named in the order has been given an opportunity of being heard by the court in the proceedings relating to the application for the order.
- (b) The court concerned may make such order as to the costs of the parties to or persons heard by the court in proceedings relating to an application for an order under this section as it considers appropriate.
- F27[(4) (a) Where a person does not comply with an order under subsection (1), Inland Fisheries Ireland or the local authority in whose functional area the waters concerned are situated, may take any steps specified in the order to mitigate or remedy the effects of the entry or discharge concerned.

(b) The amount of any expenditure incurred by a local authority or Inland Fisheries Ireland in relation to steps taken by it under paragraph (a) shall be a simple contract debt owed by the person in respect of whom the order under subsection (1) was made to the authority or Inland Fisheries Ireland, as the case may be, and may be recovered by it from the person as a simple contract debt in any court of competent jurisdiction.]

(5) A local authority may serve on a person who is—

(a) causing or permitting polluting matter to enter waters and the entry is not one to which section 3 (5) applies and is not under and in accordance with a licence under section 171 of the Act of 1959, or

(b) causing or permitting trade effluent or sewage effluent to be discharged to waters and the discharge is not one to which section 4 (2) applies, and is not under and in accordance with a licence under that section or under the said section 171,

a notice in writing requiring the cesser of the entry or discharge concerned within such period as may be specified in the notice and requiring the mitigation or remedying of any effects of such entry or discharge in such manner and within such period as may be specified in the notice.

(6) Where a person does not comply with a notice under subsection (5), the local authority concerned may take any steps it considers necessary to terminate the entry or discharge concerned and to mitigate or remedy any effects thereof and the amount of any expenditure incurred by it in relation to any such steps shall be a simple contract debt owed by the person to it and may be recovered by it from the person as a simple contract debt in any court of competent jurisdiction.

(7) (a) An application under subsection (1) to the District Court shall be made to the justice of the District Court for the District Court district in which the waters concerned or the land or other premises from which the entry or discharge concerned takes place, is situated.

(b) An application under subsection (1) to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the waters concerned or the land or other premises from which the entry or discharge concerned takes place, is situated.

(8) Without prejudice to the generality of subsections (1) and (5), an order under subsection (1) or a notice under subsection (5) may require—

(a) the replacement of fish stocks,

(b) the restoration of spawning grounds,

(c) the taking of measures to prevent the continuance of the entry or discharge to which the order or notice relates,

(d) the removal of polluting matter from waters,

(e) the treatment of affected waters so as to mitigate or remedy the effects of the entry or discharge concerned,

(f) the making of alternative arrangements for the supply of water for domestic, commercial, industrial, fishery (including fish-farming), agricultural or recreational purposes or the payment of a specified amount to the sanitary authority or other person concerned to defray all or part of the costs of such arrangements,

(g) the making good of any damage to plant or equipment or to any water abstraction or treatment works and any consequential losses incurred by any person by reason of the entry of polluting matter into waters.

(9) An application may be made under subsection (1) and a notice may be served under subsection (5) notwithstanding that a prosecution under section 3 or 4 has not been brought in respect of the relevant entry or discharge referred to in subsection (1) or (5), as may be appropriate.]

High Court's power to prohibit continuance of contravention of section 3 (1) or 4 (1).

11. — F30[(1) Where, on application by any person to the High Court, whether or not that person has an interest in the waters concerned, that Court is satisfied that—

- (a) polluting matter is being, has been or is likely to be caused or permitted to enter waters and the entry is not one to which section 3 (5) applies or would apply and is not under and in accordance with a licence under section 171 of the Act of 1959,
- (b) trade effluent or sewage effluent is being, has been or is likely to be discharged or caused or permitted to be discharged to waters and the discharge is not one to which subsection (2) of section 4 applies or would apply and is not under and in accordance with a licence under that section or the said section 171, or
- (c) polluting matter has escaped, is escaping or is likely to escape accidentally from premises to waters,

the High Court may by order—

- (i) prohibit any person from causing or permitting or continuing to cause or permit the entry of polluting matter to the waters or the discharge aforesaid of trade effluent or sewage effluent to the waters,
- (ii) require the carrying out of specified measures by any person having the custody or control of polluting matter or trade effluent or sewage effluent to prevent an entry or discharge referred to in subparagraph (i) or the continuance or recurrence of such an entry or discharge,
- (iii) for the purpose of preventing, or preventing the continuance or recurrence of, such an entry or discharge as aforesaid, or of avoiding any risk that a person having custody or control of polluting matter or trade effluent or sewage effluent may cause or permit such an entry or discharge as aforesaid, require the person to do, refrain from or cease doing any specified act or to refrain from or cease making any specified omission,
- (iv) for the purpose of preventing the escape aforesaid or the continuance or recurrence of such an escape, require the carrying out of specified measures by the occupier of the premises aforesaid and for the purpose of avoiding any risk of such an escape, require the occupier to do, refrain from or cease doing any specified act or to refrain from or cease making any specified omission, and
- (v) make such other provision as that Court considers appropriate.

(1A) An application may be brought under subsection (1) notwithstanding that a prosecution under section 3 or 4 in respect of the relevant entry or discharge referred to in subsection (1) has not been brought.]

(2) An application for an order under this section shall be by motion, and the High Court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(3) The order by which an application under this section is determined may contain any terms and conditions as to the payment of costs as the High Court considers appropriate.

Local authority's power to require measures to be taken to prevent water pollution.

12. — (1) Where it appears to a local authority that it is necessary to do so in order to prevent or control pollution of waters, it may serve a notice in writing under this section on any person having the custody or control of any polluting matter on premises in its functional area.

(2) A notice under this section shall—

- (a) specify the measures which appear to the local authority serving the notice to be necessary in order to prevent such matter from entering waters,
- (b) direct the person on whom the notice is served to take such measures as are specified in the notice, and
- (c) specify a period within which such measures are to be taken.

F31[(2A) Notwithstanding subsection (2), a notice under this subsection may, either in addition to, or in lieu of complying with that subsection—

- (a) regulate or restrict in such manner and to such extent and for such period as may be specified in the notice or make subject to specified conditions the carrying on of any activity, practice or use of premises that, in the opinion of the local authority concerned, could result in the entry of polluting matter to waters, and
- (b) require the provision, re-location or alteration of facilities for the collection or storage of polluting matter.]

F32[(3) A person on whom a notice under this section is served may, within such period as may be specified in the notice, make representations to the local authority concerned in writing regarding the terms of the notice and the authority, after consideration of any such representations, may amend a provision of the notice (including the provision relating to subsection (2) (c)) or may confirm or revoke the notice and shall inform the person of such amendment, confirmation or revocation.]

F33[(4) Where a notice under this section is not complied with in the period specified in the notice, the person on whom it was served commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(5) Where a person does not comply with a notice under this section within the period specified in the notice, the local authority which served the notice may take any steps it considers necessary to prevent polluting matter in relation to which the notice is served from entering waters, and may recover the cost of such steps from the person on whom the notice is served as a simple contract debt in a court of competent jurisdiction.

(6) F34[...]

Local authority's power to prevent and abate pollution in certain circumstances.

F35[**13.**—(1) Where it appears to a local authority or a sanitary authority that for the purpose of—

- (a) preventing the entry of polluting matter to any waters or to any drain or sewer provided solely for the reception or disposal of storm water in its functional area,
- (b) removing polluting matter from any such waters, drain or sewer,
- (c) preventing polluting matter in waters outside its functional area from affecting such area or any seashore (within the meaning of the Foreshore Act, 1933) adjoining such area, or
- (d) mitigating or remedying in relation to its functional area or any such seashore as aforesaid the effects of any polluting matter in any such waters, drain or sewer as aforesaid,

it is necessary to do so, it may take such measures (including the giving of assistance, whether financial or otherwise, to others and the procuring of the taking of measures by others) as it considers appropriate for those purposes and may dispose of any such polluting matter in such manner as it thinks fit.

(2) To the extent (if any) that any measures taken by a local authority or a sanitary authority under this section were necessitated by the acts or omissions of a person (being acts or omissions that the person ought reasonably to have foreseen would or might necessitate the taking of the measures by the authority), the expenditure incurred by the authority in relation to the measures may be recovered by the authority from the person as a simple contract debt in any court of competent jurisdiction.]

Notification of
accidental
discharges.

14. — (1) As soon as practicable after the occurrence of an accidental discharge, spillage or deposit of any polluting matter which enters or is likely to enter any waters or a sewer, the person responsible shall notify the local authority in whose functional area the discharge, spillage or deposit occurs or, in the case of a sewer, the sanitary authority in which the sewer is vested or by which it is controlled.

F36[(2) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(3) F37[...]

Water quality
management
plans.

15. — (1) A local authority may and, if so directed by the Minister, shall make a water quality management plan for any waters situated in its functional area or which adjoin that area.

(2) A plan under this section shall contain such objectives for the prevention and abatement of pollution of the waters the subject of the plan and such other provisions as appear to the local authority to be necessary.

F38[(3) Two or more local authorities may jointly make a water quality management plan in relation to waters part of which are in or adjoin the functional area of each local authority.

(3A) A water quality management plan may be revised or replaced by the local authority or local authorities that made it.]

(4) A plan under this section may relate to the sea to such extent as the Minister, after consultation with the Minister for Fisheries, may approve.

(5) A plan under this section shall not contain any provision inconsistent with regulations under section 26.

F39[(6) As soon as practicable after the making, revision or replacement of a plan under this section, a copy of the plan as so made or revised or of the replacement plan shall be given by the local authority concerned to the Minister and the Minister for Communications, Energy and Natural Resources, to Inland Fisheries Ireland and to any local authority or sanitary authority whose functional area either adjoins the waters to which the plan relates or the performance of whose functions would be affected by or would affect the implementation of the plan.]

(7) The Minister may—

(a) require plans under this section by two or more local authorities to be co-ordinated in relation to matters and in a manner specified by him,

(b) require a local authority to revise a plan under this section in relation to matters and in a manner specified by him and at such intervals as he may direct, or to replace such a plan,

(c) direct two or more local authorities jointly to make, revise or replace a plan under this section,

and local authorities shall comply with any such requisition or direction.

(8) The making, revision or replacement of a plan under this section shall be a reserved function.

(9) Any dispute between two or more local authorities as to which of them shall make a plan under this section for any waters shall be determined by the Minister.

(10) The Minister may make regulations for the purpose of this section and, without prejudice to the generality of the foregoing, such regulations may provide for all or any of the following:

(a) the publication in newspapers circulating in the functional area of a local authority of notice that a plan under this section is proposed to be made, revised or replaced,

(b) a statement in such a notice indicating where and when a copy of the proposed plan may be inspected and that representations relating to the plan may be made to the local authority within a specified period.

(11) Any person may, in accordance with regulations under subsection (10), make representations to a local authority in relation to a plan proposed to be made, revised or replaced under this section, and every such representation shall be considered by the local authority, which may then, as it thinks fit, make, revise or replace the plan with or without amendment.

Licensing of
discharges to
sewers.

16. — (1) A person other than a sanitary authority shall not, after such date as may be fixed for the purpose of this section by order made by the Minister, discharge or cause or permit the discharge of any trade effluent or other matter (other than domestic sewage or storm water) to a sewer, except under and in accordance with a licence under this section granted by the sanitary authority in which the sewer is vested or by which it is controlled.

(2) (a) A sanitary authority may at its discretion refuse to grant a licence under this section or may grant such a licence subject to such conditions as it thinks appropriate and specifies in the licence.

(b) In considering whether or not to grant a licence under this section a sanitary authority shall have regard to the objectives contained in any relevant plan under section 15.

(3) A sanitary authority shall not grant a licence under this section in respect of the discharge of a trade effluent which would not comply with any relevant standard prescribed under section 26.

(4) Without prejudice to the generality of subsection (2), conditions attached to a licence under this section may—

(a) relate to—

(i) the nature, composition, temperature, volume, rate, method of treatment and location of a discharge and the periods during which a discharge may be made or may not be made;

(ii) the provision and maintenance of meters, gauges, other apparatus, manholes and inspection chambers;

(iii) the taking and analysis of samples, the keeping of records and furnishing of information to the sanitary authority;

F40[(b) provide for the payment by the holder of the licence to the sanitary authority concerned of such amount or amounts as may be determined by the sanitary authority having regard to the expenditure incurred or to be incurred by it in monitoring, treating and disposing of discharges of trade effluent, sewage effluent and other matter to sewers in its functional area or a specified part of its functional area.]

(c) specify a date not later than which any conditions shall be complied with.

(5) Any conditions attached to a licence under this section shall be binding on any person discharging, or causing or permitting the discharge of, trade effluent or other matter to which the licence relates.

(6) Where after three years from the date on which a licence under this section is granted no discharge of the type authorised by the licence has been made, or where such a discharge has ceased for a period of three years, the licence shall cease to have effect.

(7) A person shall not permit or cause the entry of any polluting matter, including sewage, to any drain or sewer provided solely for the reception or disposal of storm water.

F41[(8) A person who contravenes subsection (1) or (7) commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €15,000,000, or imprisonment for a term not exceeding 5 years, or both.]

(9) F42[...]

(10) The Minister may, after consultation with the Minister for Fisheries, by regulations exempt from subsection (1) such classes of discharge as he specifies in the regulations.

(11) It shall be a good defence to a prosecution for an offence under any enactment other than this Act that the act constituting the alleged offence is authorised by a licence under this section.

(12) A person shall not be entitled solely by reason of a licence under this section to make, cause or permit a discharge to a sewer.

(13) A sanitary authority may serve on any person making, causing or permitting a discharge or entry in contravention of subsection (1) or (7) a notice in writing requiring the ceasing of the contravention within such period as may be specified in the notice and requiring mitigation or remedying of any effects of the contravention within such period and in such manner as may be so specified.

F44[(13A) Where a notice under this section is not complied with, the person on whom it was served commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(14) Where a person does not comply with a notice under subsection (13) within the period specified in the notice, the sanitary authority which served the notice may take any steps it considers necessary to prevent the discharge or entry or to mitigate or remedy any effects of the contravention and may recover the cost of such steps from the person on whom the notice is served as a simple contract debt in a court of competent jurisdiction on satisfying the court that that person is responsible for the contravention.

(15) A notice may be served under subsection (13) whether or not there has been a prosecution under this section.

Review of licence
under section 16.

17. — (1) A sanitary authority may review a licence under section 16 at intervals of not less than three years from the date of the licence or the last review of the licence, or at any time with the consent of the person making, causing or permitting the discharge.

F46[(2) Notwithstanding any other provision of this Act or any condition in a licence under section 16, any such licence may be reviewed at any time by the sanitary authority that granted it if—

- (a) the sanitary authority has reasonable grounds for believing that the discharge authorised by the licence is or is likely to be injurious to public health or is or is likely to render the waters to which the sewer concerned discharges unfit for use for domestic, commercial, industrial, fishery (including fish-farming), agricultural or recreational uses,
- (b) there has been a material change in the nature or volume of the discharge,
- (c) there has been a material change in relation to the waters to which the sewer concerned discharges,
- (d) further information has become available since the date of the granting of the licence relating to polluting matter present in the discharge concerned or relating to the effects of such matter, or
- (e) the licensee applies to the sanitary authority concerned to review the licence.

(2A) Notwithstanding any other provision of this Act or any condition in a licence under section 16, where regulations are in force under section 26 relating to a trade effluent or sewage effluent from a sewer or to waters to which a sewer discharges, such a licence relating to the trade effluent or authorising the discharge of a trade effluent to the sewer shall be reviewed by the local authority that granted it—

- (a) in case it was in force before the commencement of the regulations, as soon as may be after such commencement and thereafter at such intervals as may be specified in the regulations, and
- (b) in any other case, at such intervals as may be specified in the regulations.

(3) Upon completion of a review under this section, a sanitary authority may amend or delete any condition of the licence or attach conditions or additional conditions to the licence or revoke the licence; and if a sanitary authority proposes to exercise a power aforesaid, it shall do so as soon as may be after the completion of the relevant review under this section.]

(4) (a) The Minister may make regulations for the purpose of this section.

(b) Without prejudice to the generality of paragraph (a), regulations under this subsection may make provision in relation to all or any of the following matters:

- (i) the giving of notice by a sanitary authority to a person discharging or causing or permitting a discharge of intention to review a licence, and
- (ii) requiring a statement in such a notice that representations relating to the review may be made within a specified period

F47[(c) Without prejudice to the generality of paragraph (a), regulations under this subsection may also make provision in relation to all or any of the following matters:

- (i) the payment to sanitary authorities of fees of such amounts as may be specified in the regulations in relation to reviews of licences,
- (ii) the payment of fees of different amounts in respect of different classes of such reviews as aforesaid,

- (iii) exemption from the payment of such fees in such circumstances as may be specified,
- (iv) the waiver, remission or refund (in whole or in part) of such fees in such circumstances as may be specified, or
- (v) the manner in which fees may be disposed of.]

F48[(5) Where, pursuant to regulations under this section, a fee is payable to a sanitary authority, the sanitary authority shall not conduct the review in relation to which the fee is payable until the receipt thereof by the sanitary authority.]

Provisions consequential on section 16.

18. — (1) A person shall be deemed not to have contravened section 16 (1) in relation to an existing discharge of trade effluent or other matter made before he is granted or refused a licence under section 16 if, before the relevant date, he applies for such a licence and complies with the requirements of any regulations under section 19 regarding the furnishing of information to a sanitary authority.

(2) In a prosecution for an offence under section 16 it shall be presumed, until the contrary is shown by the person charged, that the discharge concerned is not an existing discharge of trade effluent or other matter made in the circumstances specified in subsection (1).

(3) Where regulations under section 26 relate to an existing discharge of trade effluent being made in the circumstances specified in subsection (1), the sanitary authority concerned shall grant or refuse (as the case may require) a licence under section 16 in respect of the discharge as soon as may be after the regulations are made.

(4) In this section—

“ existing discharge ” means a discharge which is similar in nature, composition and temperature to, and is of a similar volume and is made at a similar rate to, a discharge made during any corresponding period in the period of twelve months ending on the relevant date;

“ relevant date ” means the date fixed by order under section 16 (1).

Regulations for the purpose of sections 16 and 20.

19. — (1) The Minister may make regulations for the purpose of sections 16 and 20.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision for all or any of the following:

- (a) the form of licence;
- (b) requiring the furnishing by applicants of specified information;
- (c) requiring the production of evidence to verify any information given by an applicant;
- (d) requiring sanitary authorities to furnish to the Minister and to any other specified persons any specified information in relation to any applications and the manner in which they have been dealt with;
- (e) requiring an applicant to defray or contribute towards the cost of any investigation carried out by a sanitary authority in relation to an application.

F51[(f) the oral hearing of any appeal to An Bord Pleanála and any such oral hearing being conducted by An Bord Pleanála or by a person appointed for that purpose by An Bord Pleanála.]

F52[(2A) Regulations under this section may make provision for—

(a) the payment to a sanitary authority of a fee of such amount as may be specified in respect of an application to it for a licence under section 16, and

(b) the payment to An Bord Pleanála of a fee of such amount as may be specified in respect of an appeal to it under section 20,

and any such regulations may make provision for—

(i) the payment of fees of different amounts in respect of different classes of such applications and appeals as aforesaid,

(ii) exemption from the payment of fees provided for under paragraph (a) or (b) in such circumstances as may be specified,

(iii) the waiver, remission or refund (in whole or in part) of such fees in such circumstances as may be specified, and

(iv) the manner in which such fees may be disposed of.

(2B) Where, pursuant to regulations under this section, a fee is payable to a sanitary authority in respect of an application for a licence under section 16, the sanitary authority shall not consider the application unless the fee is received by the sanitary authority.

(2C) Where, pursuant to regulations under this section, a fee is payable to An Bord Pleanála in respect of an appeal under section 20, the appeal shall not be entertained unless the fee is received by An Bord Pleanála before the expiration of the prescribed period referred to in subsection (1) of that section.

(2D) Where, pursuant to regulations under this section, a fee is payable to An Bord Pleanála in respect of a request for the oral hearing of an appeal, An Bord Pleanála shall not consider the request unless the fee is received by An Bord Pleanála.]

(3) F53[(a) A person who, in relation to an application for a licence under section 16 or an appeal under section 20, when furnishing information under this section or when verifying any such information, makes a statement which is false or to such person's knowledge misleading in a material respect commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(b) Where a person is convicted of an offence under this subsection, any licence issued to that person consequent on the application or appeal in relation to which the information was furnished shall stand revoked from the date of the conviction.

(4) A defrayment or contribution under subsection (2) (e) or section 16 (4) (b) shall be payable on demand and, in default of being so paid, shall be recoverable as a simple contract debt in a court of competent jurisdiction.

(5) F54[...]

Appeals in
relation to
sections 16 and
17.

F56[20.—(1) (a) The occupier of premises from which a discharge to which a licence under section 16 relates is made may, before the expiration of such period as may be prescribed, appeal to An Bord Pleanála in relation to—

(i) the revocation of the licence,

(ii) the attachment of conditions or additional conditions to the licence, or

(iii) the amendment or deletion of any condition attached to the licence,

by a sanitary authority.

(b) A person whose application for a licence under section 16 has been refused by a sanitary authority may, before the expiration of such period as may be prescribed, appeal to An Bord Pleanála in relation to the refusal.

(c) An act of a sanitary authority referred to in paragraph (a) or (b) shall have effect—

(i) in case an appeal is not brought against it, upon the expiration of the period referred to in paragraph (a) or (b), as the case may be,

(ii) in case an appeal is brought against it and the final determination of the appeal does not set the act aside, upon and in accordance with such final determination,

(iii) in case an appeal is brought against it and the appeal is withdrawn, upon the withdrawal of the appeal.

(2) An Bord Pleanála, after consideration of an appeal under this section, shall, as it thinks proper, allow or refuse the appeal and may give any direction consequent on its decision that it considers appropriate to the sanitary authority concerned (including a direction that a specified condition be attached to the licence concerned or be amended or deleted) and a sanitary authority shall comply with any such direction.]

Transfer of
certain appeals to
An Bord Pleanála.

F58[21.—(1) The Minister may by regulations provide for—

(a) any procedural matter in relation to appeals under sections 8 and 20, and

(b) such incidental and supplementary matters (including the modification of any provision of the Local Government (Water Pollution) Acts, 1977 and 1990, and the Local Government (Planning and Development) Acts, 1963 to 1983) as appear to the Minister to be necessary or expedient for the purpose of such appeals.

(2) Sections 6 (2) (d), 19 (2) (d) and subsections (1) (a) and (9) of section 28 shall, as respects such appeals as aforesaid, have effect as if the references therein to the Minister were references to An Bord Pleanála.]

Monitoring, etc.
by local
authorities and
sanitary
authorities.

22. — (1) A local authority or sanitary authority—

(a) shall carry out or cause to be carried out or arrange for such monitoring of waters and discharges of trade effluents and sewage effluents and other matter to waters (in the case of a local authority) or to sewers (in the case of a sanitary authority) as it considers necessary for the performance of any of its functions under this Act or as may be directed by the Minister,

(b) may collect, cause to be collected or arrange for the collection of such information as it considers necessary for the performance of any of its functions under this Act or as may be directed by the Minister.

(2) A local authority or a sanitary authority may provide meters, gauges, manholes or inspection chambers or any other apparatus for any of the purposes of this section.

Obligation to give
information to
local authorities
and sanitary
authorities.

F59[23.—(1) A local authority may, for the purposes of its functions under this Act, by notice in writing given to or served on a person who—

(a) is abstracting water from any waters in the functional area of the authority,

(b) is discharging, or causing or permitting the discharge of, trade effluent or sewage effluent or other matter to any such waters,

(c) has custody or control of any polluting matter in its functional area,

(d) is engaged in activities or practices that, in the opinion of the local authority, may cause or permit polluting matter to enter waters,

require the person to give to the local authority in writing, within such period (being not less than 14 days) beginning on the date of the giving or serving of the notice as may be specified in the notice, such particulars as may be so specified in relation to any of the activities or practices aforesaid (including the custody or control of polluting matter) and such other information (if any) as it may consider necessary for the purposes of those functions.

(2) A sanitary authority may, for the purposes of its functions under this Act, by notice in writing given to or served on a person, require the person who is making, causing or permitting a discharge to a sewer to give to the sanitary authority in writing, within such period (being not less than 14 days) beginning with the date of the giving or serving of the notice as may be specified in the notice, such particulars as may be so specified in relation to the discharge and such other information (if any) as it may consider necessary for the purposes of those functions.

(3) Without prejudice to the generality of subsections (1) and (2), a notice under either of those subsections relating to trade effluent, sewage effluent or other polluting matter may require the person to or on whom it is given or served to give to the local authority or, as the case may be, the sanitary authority, concerned—

(a) maps, plans, drawings or photographs showing the location, nature, extent and condition of—

(i) any facilities for the collection, storage, treatment or disposal of the effluent or other polluting matter,

(ii) any other premises from which polluting matter may enter waters, or

(iii) any sewer,

and showing their relationship to any waters, and

(b) such other particulars as may be specified in the notice of the matters aforesaid, including particulars of the arrangements, systems and methods in use or proposed for the disposal of the effluent or other polluting matter, and of the times and rates at which such disposal is effected.

F60[(4) A person who—

(a) fails or refuses to comply with a requirement in a notice under this section, or

(b) in purported compliance with a requirement in a notice under this section gives to a local authority or sanitary authority information that, to such person's knowledge, is false or is misleading in a material respect,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]]

Consultation by
local authorities,
sanitary
authorities and
boards of
conservators.

24. — The Minister may, after consultation with the Minister for Fisheries, the Minister for Industry and Commerce, any other Minister who appears to him to be interested and the Water Pollution Advisory Council, make regulations requiring local authorities, sanitary authorities and boards of conservators to consult with such persons and in such manner in relation to the exercise of such powers and duties under this Act as may be prescribed.

Establishment of
water quality
control
authorities.

25. — (1) The Minister may, after consultation with the Minister for the Public Service and the Water Pollution Advisory Council, by order establish, in respect of such area as is specified in the order, a water quality control authority.

(2) A water quality control authority shall perform such functions under this Act of a local authority relating to water pollution as may be specified in the order establishing the authority.

(3) An order under this section may contain such incidental, supplemental and consequential provisions as appear to the Minister to be necessary for the establishment of the authority, including provisions relating to the membership of a water quality control authority, the transfer to such an authority of specified functions under this Act of a local authority in relation to the area (or part of the area) in respect of which the authority is established, and any necessary modification of any statutory provisions relating to a local authority.

(4) A water quality control authority shall be a body corporate with perpetual succession and a seal and may sue and be sued in its corporate name and may hold and dispose of land.

(5) (a) A water quality control authority shall be a joint body within the meaning and for the purposes of the County Management Acts, 1940 to 1972.

(b) A water quality control authority shall be a local authority within the meaning and for the purposes of—

(i) the Local Government Acts, 1925 to 1974,

(ii) the Local Authorities (Officers and Employees) Acts, 1926 and 1940,

(iii) the [Local Authorities \(Combined Purchasing\) Act, 1939](#),

(iv) the [Local Government \(Superannuation\) Act, 1956](#), and

(v) the Local Authorities (Mutual Assurance) Acts, 1926 to 1935.

(6) Without prejudice to the generality of subsection (1) or (3), an order under this section may—

(a) provide for the recoupment (in such manner as may be specified in the order) of all or part of the expenses of a water quality control authority and, where a local authority or other person fails to make such a recoupment, the deduction from moneys payable to the local authority or other person by any Minister and the payment to the water quality control authority by that Minister out of such moneys of an amount equal to that to be recouped, and

(b) include provisions relating to all or any of the following matters—

(i) appointment of members (including chairman),

(ii) cessation of membership,

(iii) meetings (including procedure, proceedings and quorum),

(iv) any matters ancillary or incidental to any of the foregoing matters.

(7) Where an order under this section is proposed to be made the Minister shall cause a draft thereof to be laid before each House of the Oireachtas, and the order shall not be made until a resolution approving of the draft has been passed by each House.

Quality
standards, etc.

26. — (1) The Minister may, after consultation with the Minister for Fisheries, the Minister for Industry and Commerce, any other Minister who appears to him to be interested and the Water Pollution Advisory Council, prescribe for the purposes of

this Act quality standards for waters, trade effluents and sewage effluents and standards in relation to methods of treatment of such effluents.

F61[(1A) Regulations under this section shall not relate to sewage or other effluents from any works, apparatus, treatment plant, sewer or drainage pipe vested in, or controlled or used by, a sanitary authority for the disposal of sewage or other effluents to any waters.]

(2) Regulations under this section may relate to—

- (i) all or specified, or specified classes of, waters, trade effluents or sewage effluents,
- (ii) waters, trade effluents or sewage effluents in specified areas, or
- (iii) waters specified by reference to their use.

(3) Where regulations under this section relate to sewage effluent from a sewer or to waters to which sewage effluent from a sewer discharges, it shall be the duty of the sanitary authority in which the sewer is vested or by which it is controlled to take steps as soon as practicable to ensure that the sewage effluent complies with, or does not result in the waters to which the effluent is discharged not complying with, any relevant standard prescribed under this section.

F62[(4) (a) Regulations under this section may require persons to take such steps as may be specified in the regulations to secure compliance with quality standards standing prescribed under subsection (1) and may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purpose of the regulations (including provisions modifying any provision of the Local Government (Water Pollution) Acts, 1977 and 1990).

(b) Where it is proposed to make regulations under this section modifying a provision of this Act, a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft shall have been passed by each such House.]

F63[Regulations for the prevention or limitation of water pollution.

26A.—(1) For the purpose of preventing or limiting water pollution, the Minister may, by regulations, prohibit or limit or control in a specified manner and to a specified extent, the production, treatment, use (in a process or otherwise), importation, distribution, storage, transport, supply or sale of any specified substance or of any article containing any specified substance.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

- (a) make different provisions for different substances or articles,
- (b) require local authorities or other specified persons to take specified steps for the purposes of securing compliance with the regulations,
- (c) contain such incidental, consequential and supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of such regulations.

F64[(3) (a) A person who contravenes a regulation under this section commits an offence.

(b) A person who commits an offence under this section is liable—

- (i) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both, or

(ii) on conviction on indictment, to a fine not exceeding €15,000,000, or imprisonment for a term not exceeding 5 years, or both.]

(4) A prosecution for an offence under this section may be taken by the Minister, a local authority, or such other person as may be specified in regulations under this section.]

Regulations
restricting use of
certain vessels.

27. — (1) The Minister may, after consultation with the Minister for Transport and Power, the Commissioners of Public Works in Ireland and the Water Pollution Advisory Council, make regulations to enable local authorities to prohibit, restrict or regulate the keeping or use, in such waters (other than tidal waters) as may be specified in the regulations, of vessels with sanitary appliances from which polluting matter passes or can pass into the waters.

(2) F65[...]

F66[(3) A person who contravenes a regulation under this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(4) F67[...]

Powers of entry,
inspection etc.

28. — (1) Subject to this section, an authorised person may at any reasonable time enter premises or vessels for the purposes of—

- (a) performance of a function conferred under this Act on a local authority, a sanitary authority, the Minister, the Minister for Fisheries or a board of conservators,
- (b) ascertaining whether such a function should be performed,
- (c) ascertaining whether there is or has been a contravention of any provision of this Act or of any regulations under this Act, or
- (d) carrying out such inspection and taking such samples of waters, effluents or other matter as may be necessary for the performance of such a function under this Act.

(2) Notwithstanding anything in subsection (1), the power of entry to premises or vessels conferred by that subsection may be exercised at any time in relation to a function conferred by section 13.

(3) In any legal proceedings under this Act it shall be presumed until the contrary is shown that any sample of effluent taken by an authorised person at an inspection chamber or manhole or other place provided under and in accordance with a licence under this Act is a sample of what was passing from the premises, works, apparatus, plant or drainage pipe concerned to waters or a sewer at the time the sample was taken.

F68[(3A) (a) Where an authorised person who is on premises or a vessel in pursuance of the powers conferred by this section reasonably believes that an offence under section 3 (1), 4 (1) or 16 (1) of this Act or section 21 (3) of the Local Government (Water Pollution) (Amendment) Act, 1990, is being or has been committed in relation to the premises or vessel, he may request from any person he finds on the premises or vessel his name and address and a description of his occupation and his functions and responsibilities as respects the premises or vessel, as the case may be, and any enterprise carried on at the premises or on the vessel and (in so far as they are known to him) the name and address of the occupier of the premises, the owner of the vessel and the person in charge of the premises or vessel.

F69[(b) A person who—

- (i) fails or refuses to comply with a request under this subsection, or
 - (ii) in pursuance of such a request, furnishes, to such person's knowledge, information that is false or misleading to an authorised person,
- commits an offence, and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]]

F70[(4) A person who obstructs an authorised person in the performance of duties under this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000, or imprisonment for a term not exceeding 3 months, or both.]

(5) The Minister may make regulations for the purpose of this section and, without prejudice to the generality of the foregoing, such regulations may—

- (a) provide for the taking of samples and the carrying out of tests, examinations and analyses of samples taken under this section,
- (b) prescribe the classes of persons to be responsible for taking such samples and for the carrying out of such tests, examinations and analyses,
- (c) prescribe the certificate or other evidence to be given of the result of any such test, examination or analysis and the classes of persons by and to whom such certificate or evidence is to be given,
- (d) provide that any certificate or other evidence prescribed under paragraph (c) and given in respect of the test, examination or analysis of a sample shall in relation to that sample be sufficient evidence of the result of the test, examination or analysis until the contrary is shown.

(6) (a) A person authorised under this section to enter premises or vessels shall, if so required, produce evidence of his authority before so entering and may take with him such other persons and such equipment as may be necessary.

(b) Entry to any premises or vessel used exclusively for residential purposes, and entry with heavy equipment to any other land, shall not, except for the purpose of exercising a function conferred by section 13, be made under this section unless seven days' notice in writing of the intended entry has been given to the occupier.

(c) Any person who in the exercise of his powers under this section enters any premises or vessel which is unoccupied or from which the occupier is temporarily absent shall leave the premises or vessel as effectually secured against trespassers as he found it.

(7) (a) Where it is shown to the satisfaction of a justice of the District Court on sworn information in writing—

(i) that admission to any premises or vessel which any person is entitled to enter under this section has been refused to that person or that refusal is apprehended, and

(ii) that there is reasonable ground for the entry for the purpose for which entry is required;

the justice may by warrant under his hand authorise that person to enter the premises or vessel.

(b) A warrant granted under this subsection shall continue in force until the purpose for which entry is required has been satisfied.

(8) F71[...]

(9) In this section—

“ authorised person ” means a person who is appointed by a local authority, a sanitary authority, the Minister, the Minister for Fisheries or a board of conservators to be an authorised person for the purposes of this Act.

Research, etc.
into water
pollution.

29. — A local authority may contribute to the funds of a person engaged in or proposing to engage in research, surveys or investigations in relation to water pollution, but any such contribution shall not exceed any limit or contravene any condition which may from time to time be prescribed.

Regulations
generally.

30. — (1) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations.

(2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Local authority's
power to
prosecute.

31. — F72[...]

Service of notices
under Act.

32. — (1) Any notice required to be given or served by or under this Act shall be addressed to the person concerned and given or served in one of the following ways—

(a) by addressing it to him by name and delivering it to him,

(b) by leaving it at the address at which he ordinarily resides,

(c) by sending it by post in a prepaid registered letter addressed to him at the address at which he ordinarily resides,

(d) where the address at which he ordinarily resides cannot be ascertained by reasonable inquiry and the notice is required to be given in respect of any premises or vessel, by delivering it to a person over 16 years of age resident or employed on the premises or vessel or by affixing it in a conspicuous position on or near the premises or vessel.

(2) Where the name of the occupier cannot be ascertained by reasonable inquiry a notice under this section may be addressed to “ the occupier ”.

(3) For the purpose of this section a company registered under the [Companies Act, 1963](#), shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Commencement.

33. — This Act shall come into operation on such day or days as may be appointed by order or orders of the Minister, either generally or with reference to a particular purpose or provision, and different days may be fixed for different purposes and different provisions of this Act.

Repeals.

34. — The following are hereby repealed—

(a) the Rivers Pollution Prevention Act, 1876.

(b) the Rivers Pollution Prevention Act, 1893.

(c) F73[...].

- Expenses. **35.** — (1) The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas to such extent as may be sanctioned by the Minister for Finance.
- (2) The expenses under this Act of the council of the county of Dublin shall be charged on that county exclusive of the borough of Dun Laoghaire.
- Short title. **36.** — This Act may be cited as the Local Government (Water Pollution) Act, 1977.



Number 1 of 1977

LOCAL GOVERNMENT (WATER POLLUTION) ACT 1977

REVISED

Updated to 14 October 2021

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Local Government (Water Pollution) Acts 1977 to 2007: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Water Services Act 2007* (30/2007), s. 1(4)). The Acts in this group are:

- *Local Government (Water Pollution) Act 1977* (1/1977)
- *Local Government (Water Pollution) (Amendment) Act 1990* (21/1990)
- *Water Services Act 2007* (30/2007), ss. 1(4), 109, 110

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.