STATUTORY INSTRUMENTS

1986 No. 1623

PUBLIC HEALTH, ENGLAND AND WALES
PUBLIC HEALTH, SCOTLAND

The Control of Pollution (Exemption of Certain Discharges from Control) (Variation) Order 1986

Made - - - -	16*th September* 1986
Laid before Parliament	24*th September* 1986
Coming into Operation—	
all articles except article 2(a) and (c) and the Schedule—	15*th October* 1986
article 2(a) and (c) and the Schedule—	15*th October* 1987

The Secretary of State, in exercise of the powers conferred on him by sections 32(3)*(b)* and 104(1)*(a)* of the Control of Pollution Act 1974 (**a**) and of all other powers enabling him in that behalf, hereby makes the following order:—

Citation and commencement

1.—(1) This order may be cited as the Control of Pollution (Exemption of Certain Discharges from Control) (Variation) Order 1986 and shall, subject to paragraph (2), come into operation on 15th October 1986.

(2) Article 2*(a)* and *(c)* and the Schedule shall come into operation on 15th October 1987.

Variation of the Control of Pollution (Exemption of Certain Discharges from Control) Order 1983

2. The Control of Pollution (Exemption of Certain Discharges from Control) Order 1983 (**b**) ("the 1983 Order") shall be varied as follows—

(a) in article 3 (certain discharges to be exempt from control under section 32 of the Control of Pollution Act 1974) the proviso shall be omitted;

(b) in article 4 (publicity to be given by water authorities to exemptions from control effected by order) after the words "general effect of this order" there shall be inserted the words "and of any order varying or revoking any provisions of this order so far as it affects its area" and for the words "the order" there shall be substituted the words "the orders"; and

(c) for the Schedule, there shall be substituted the Schedule to this order.

(**a**) 1974 c.40. (**b**) S.I. 1983/1182.

Transitional Provisions

3. Where an application for consent in pursuance of section 34 of the Control of Pollution Act 1974 in respect of any discharge is duly made to a water authority before 15th October 1987 and the discharge in question is substantially a continuation of a previous discharge which during the year ending on 14th October 1987 was by virtue of article 3 of the 1983 Order lawfully made without such consent (any reduction of the temperature, volume or rate of the discharge as compared with that of the previous discharge being disregarded), the authority shall be deemed to have given unconditionally the consent applied for—

(a) until the authority actually gives the consent unconditionally; or

(b) if the authority refuses consent or gives it subject to conditions, until the expiration of the period of three months beginning with the date when the authority serves on the applicant notice of the refusal or the conditions subject to which consent is given; or

(c) if during that period the applicant appeals to the Secretary of State against the decision in pursuance of section 39 of that Act, until the determination of the appeal.

SCHEDULE

NEW SCHEDULE TO THE 1983 ORDER

(1) Discharges to which section 32(1) does not apply	(2) Discharges excepted from the exemption granted by the order
1. Discharges begun on or before 30th April 1974 of any trade or sewage effluent from a building or from plant into any lake, loch or pond which does not discharge into a stream.	1. *(a)* Discharges containing free or combined mercury, free or combined cadmium, aldrin, dieldrin, endrin, lead, copper, nickel, chromium, zinc, arsenic, dichlorodiphenyltrichloroethane, hexachlorobenzene, hexachlorobutadiene, hexachlorocyclohexane, carbon tetrachloride or pentachlorophenol in such quantities as are liable to give rise to pollution within the meaning of Article 1(2)*(e)* of Council Directive No. 76/464/EEC (**a**) on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community; *(b)* discharges which are liable to affect the quality of any waters in such a manner as to result in non-compliance with Council Directive No. 78/659/EEC (**b**) (on the quality of fresh waters needing protection or improvement in order to support fish life) or Council Directive No. 75/440/EEC (**c**) (concerning the quality required of surface water intended for the abstraction of drinking water in the Member States).

(**a**) OJ No. L129, 18.5.76, p.23.
(**b**) OJ No. L222, 14.8.78, p.1.
(**c**) OJ No. L194, 25.7.75, p.26.

(1) Discharges to which section 32(1) does not apply	(2) Discharges excepted from the exemption granted by the order
2. Discharges begun on or before 30th April 1974 of any matter other than trade or sewage effluent into any stream or controlled waters from a sewer or drain as respectively defined by section 343 of the Public Health Act 1936 (a) or, in the case of Scotland, by section 59(1) of the Sewerage (Scotland) Act 1968 (b).	2. *(a)* Discharges of any description specified in paragraphs 1*(a)* and *(b)* of this column; *(b)* discharges which are liable to result in non-compliance with Council Directive No. 76/160 EEC (c) (concerning the quality of bathing water) or Council Directive No. 79/923/EEC (d) (on the quality required of shellfish waters).
3. Discharges begun on or before 30th April 1974 of any trade or sewage effluent from a building or from plant on to or into any land.	3. *(a)* Discharges which are liable to result in any substance mentioned in List I of the Annex to Council Directive No. 80/68/EEC (e) (on the protection of groundwater against pollution caused by certain dangerous substances) reaching specified underground water in a quantity or concentration likely to give rise to deterioration in the quality of such water; *(b)* discharges which are liable to result in any substance mentioned in List II of the said Annex reaching specified underground water in such quantities as to give rise to pollution within the meaning of Article 1(2)*(d)* of the said Council Directive No. 80/68/EEC.
4. Discharges of any description specified in the preceding entries in this column begun after 30th April 1974 but before 4th July 1984.	4. Discharges of any description specified in this column.

Nicholas Ridley,
Secretary of State for the Environment.

11th September 1986.

Nicholas Edwards,
Secretary of State for Wales.

11th September 1986.

Michael Ancram,
Parliamentary Under Secretary of State,
Scottish Office.

16th September 1986.

(a) 1936 c.49. (b) 1968 c.47. (c) OJ No. L31, 5.2.76, p.1.
(d) OJ No. L281, 10.11.79, p.47. (e) OJ No. L20, 26.1.80, p.43.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order varies the Control of Pollution (Exemption of Certain Discharges from Control) Order 1983.

Section 32(1) of the Control of Pollution Act 1974 makes certain discharges of trade or sewage effluent unlawful if made without the consent of a water authority (in Scotland, a river purification authority).

The 1983 order permitted certain discharges authorised by earlier statutes to be continued without such consent after section 32(1) came into force. The permitted discharges are described in the Schedule to the order. This order withdraws many of the exemptions from 15th October 1987 by substituting a new and more limited Schedule. In particular discharges direct to rivers or to the sea of trade or sewage effluent established before 1974 will now require a consent under section 34 of the 1974 Act.

There are transitional provisions in article 3 of the order. If an application for consent is made before 15th October 1987 and the other conditions of article 3 are satisfied, the discharge to which the application relates can lawfully be continued until—

(a) consent is given unconditionally;

(b) 3 months after consent is refused or granted subject to conditions; or

(c) the final determination of any appeal.

Copies of the EEC Directives referred to in this order may be obtained from Her Majesty's Stationery Office.

Information concerning waters to which those EEC Directives apply may be obtained from the water authority concerned.

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