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AN BILLE RIALTAIS AITIUIL (TRUAILLIU UISCE), 1976
LOCAL GOVERNMENT (WATER POLLUTION) BILL, 1976

Mar a tugadh isteach
As introduced

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[No. 4 of 1976.]

AN BILLE RIALTAIS AITIUIL (TRUAILLIU UISCE), 1976
LOCAL GOVERNMENT (WATER POLLUTION) BILL, 1976

BILL

entitled

AN ACT TO PROVIDE FOR THE CONTROL OF WATER POLLUTION AND FOR OTHER MATTERS CONNECTED WITH WATER POLLUTION.

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 and poultry) and the making and storage of silage;

" aquifer " means any stratum or combination of strata that stores or transmits sufficient water to serve as a source of water supply;

" board of conservators " means a board of conservators under the Fisheries Acts, 1959 to 1974, and includes the Foyle Fisheries Commission;

" fish " has the same meaning as in the Fisheries Acts, 1959 to 1974;

" 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 " means (except in *section 24* (*5*) (*b*)), in the case of an administrative county other than a county borough, the council of the county and, in the case of a county borough, the corporation of the county borough, and, where the context permits, includes a water quality control authority established under *section 24*, 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;

" polluting matter " includes 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;

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

" reserved function " means, in the case of the council of a county, 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;

"sewer" has the same meaning as in the Local Government (Sanitary Services) Acts, 1878 to 1964, and includes sewage treatment or disposal works of a sanitary authority;

"tidal waters" includes the sea and any estuary up to mean 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.—(1) The Minister may, after consultation with any other Minister who appears to him to be interested, appoint a body which shall be known as the Water Pollution Advisory Council and is in this section referred to as the Council.

(2) The Council may advise the Minister in relation to any matter relevant to his functions or responsibilities concerning control of water pollution and shall advise him on any such matter referred to it by the Minister.

(3) The Council shall consist of such number of persons appointed for such period as the Minister thinks fit.

(4) The Minister shall from time to time nominate one member of the Council to act as chairman thereof.

(5) The Minister may at any time remove any member (including the chairman) of the Council from office.

(6) There shall be paid to any member of the Council such expenses as the Minister, with the consent of the Minister for the Public Service, may determine.

General prohibition on entry of polluting matter to waters.

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

(2) A person who contravenes *subsection* (*1*) shall be guilty of an offence and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £250 (together with, in the case of a continuing contravention, a fine not exceeding £100 for every day on which the contravention is continued) or to imprisonment for any term not exceeding six months or, at the discretion of the court, to both such fine or fines and such imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding £5,000 (together with, in the case of a continuing contravention, a fine not exceeding £500 for every day on which the contravention is continued) or to imprisonment for any term not exceeding two years or, at the discretion of the court, to both such fine or fines and such imprisonment.

(3) It shall be a good defence to a prosecution under this section to prove to the satisfaction of the court that the person charged took all reasonable care to prevent the entry prohibited under *subsection* (*1*).

(4) A prosecution for an offence under this section may be taken by a local authority, a board of conservators or the Minister for Agriculture and Fisheries.

(5) *Subsection* (*1*) does not apply to—

(*a*) discharges of trade effluents or sewage effluents;

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

1933, No. 12.
1946, No. 9.

(*c*) any deposit authorised under sections 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 1974.

(6) For the purpose of continuing, notwithstanding the repeal effected by *section 33* (*c*), the exemption conferred by each enactment mentioned in the Table to this section, a reference in any such enactment to the Fisheries (Ireland) Acts, 1842 to 1909, the Fisheries Acts, 1842 to 1935, or the Fisheries Acts, 1842 to 1944, shall be construed as including a reference to *subsection* (*1*).

TABLE

Section 16 of the Shannon Electricity Act, 1925.	1925, No. 26.
Section 16 of the Liffey Reservoir Act, 1936.	1936, No. 54.
Section 10 of the Arterial Drainage Act, 1945.	1945, No. 3.
Section 11 of the Electricity (Supply) (Amendment) Act, 1945.	1945, No. 12.
Section 27 of the Turf Development Act, 1946.	1946, No. 10.
Section 6 of the Local Authorities (Works) Act, 1949.	1949, No. 17.

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.

(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 25*.

(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, 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.

(8) A person who contravenes *subsection* (*1*) shall be guilty of an offence and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £250 (together with, in the case of a continuing offence, a fine not exceeding £100 for every day on which the contravention is continued) or to imprisonment for a term not exceeding six months or, at the discretion of the court, to both such fine or fines and such imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding £5,000 (together with, in the case of a continuing offence, a fine not exceeding £500 for every day on which the contravention is continued) or to imprisonment for a term not exceeding two years or, at the discretion of the court, to both such fine or fines and such imprisonment.

(9) A prosecution for an offence under this section may be taken by a local authority, a board of conservators or the Minister for Agriculture and Fisheries.

(10) The Minister may, after consultation with the Minister for Agriculture and Fisheries, 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 consequental 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 25* 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 *sections 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;

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

(3) A person who, in relation to an application for a licence under *section 4* or an appeal under *section 8*, when furnishing information under this section or when verifying any such information, makes a statement in writing which is false or to his knowledge misleading in a material respect shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(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) A prosecution for an offence under this section may be taken by the Minister or a local authority.

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.

(2) As soon as may be after it has completed a review under this section, a local authority may amend or delete any condition attached to the licence or attach new conditions to the licence, and where appropriate shall grant a revised licence under *section 4* in substitution for the licence reviewed.

(3) Notwithstanding any other provision of this Act or any provision in a licence under *section 4*—

(*a*) any such licence may be reviewed at any time by the local authority which granted it where the authority has reasonable grounds for believing the discharge authorised by the licence to be a significant threat to public health or where a material change has taken place in conditions in the receiving waters which could not reasonably have been foreseen when the licence was granted,

(*b*) where regulations under *section 25* relate to an effluent the discharge of which is authorised by such a licence or to the waters to which such effluent is discharged, the licence shall be reviewed by the local authority which granted it as soon as may be after the regulations are made,

and *subsection* (*2*) shall apply to a review under this subsection.

(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.

Appeals in relation to *sections 4* and *7*.

8.—(1) Any person may, before the expiration of the prescribed period, appeal to the Minister in relation to the granting or refusing of a licence under *section 4*, the conditions attached to such a licence or amendment or deletion of conditions attached to or attachment of new conditions to a licence on a review under *section 7*.

(2) The Minister, after consideration of an appeal under this section, shall either (as he thinks proper) refuse the appeal or give appropriate directions to the local authority concerned relating to the granting or refusing of a licence or the attachment, amendment or deletion of conditions, and, where such directions are given, the authority shall, as soon as may be after receipt of the directions, comply with them.

Registers of licences under *sections 4 and16* 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.

10.—(1) Where it appears to a local authority, the Minister for Agriculture and Fisheries or a board of conservators that a contravention of *section 3 (1)* or *4 (1)* has occurred or is occurring, the authority, the Minister for Agriculture and Fisheries or the board may apply to the District Court for an order directing such person as may be named in the order to mitigate or remedy any effects of the contravention within such period and in such manner as may be specified in the order.

(2) A person who does not comply with an order under *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250 (together with, in the case of a continuing offence, a fine not exceeding £100 for every day on which the contravention is continued) or to imprisonment for a term not exceeding six months or, at the discretion of the court, to both such fine or fines and such imprisonment.

(3) An order under *subsection (1)* shall not be made without the person proposing to be named in the order being given an opportunity of being heard by the District Court, and may contain any terms and conditions as to the payment of costs as the court considers appropriate.

(4) Where a person does not comply with an order under *subsection (1)* within the period specified in the order a local authority may take any steps it considers necessary to mitigate or remedy any effects of the contravention and may recover the cost of such steps as a simple contract debt in a court of competent jurisdiction from the person named in the order.

(5) A local authority may serve on any person making, causing or permitting a discharge or entry in contravention of *section 3 (1)* or *4 (1)* 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.

(6) Where a person does not comply with a notice under *subsection* (*5*) within the period specified in the notice, the local authority which served the notice may take any steps it considers necessary to prevent the entry or discharge 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.

(7) An application may be made under *subsection* (*1*) and a notice served under *subsection* (*5*) whether or not there has been a prosecution under *section 3* or *section 4*.

(8) An application under *subsection* (*1*) may be made to a justice of the District Court sitting within the District Court District in which the contravention occurs.

(9) A prosecution for an offence under this section may be taken by a local authority, a board of conservators or the Minister for Agriculture and Fisheries.

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

11.—(1) Where a contravention of *section 3* (*1*) or *4* (*1*) has occurred or is occurring, the High Court may, on the application of a local authority or any other person, whether or not the person has an interest in the waters, by order prohibit the continuance of the contravention.

(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 poisonous, noxious or 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.

(3) A person on whom a notice under this section is served may make representations to the local authority concerned regarding the terms of the notice within such period as may be specified in the notice and the authority, after consideration of any such representations, may amend the notice.

(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 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250, together with, in the case of a continuing offence, a further fine not exceeding £100 for every day on which the offence is continued.

(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 poisonous, noxious or 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) A prosecution for an offence under this section may be taken by a local authority.

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

13.—(1) Where it appears to a local authority that urgent measures are necessary to prevent pollution of any waters in its functional area, to remove poisonous, noxious or polluting matter from waters in that area, or, while such matter is in waters outside that area, to prevent it affecting any part of that area, the local authority may take such steps, carry out such operations or give such assistance as it considers necessary to prevent such matter from entering the waters, to remove the matter from the waters, to dispose of it as it thinks fit and to mitigate or remedy the effects of any pollution caused by the matter.

(2) Where a local authority takes steps, carries out operations or gives assistance under this section it may recover the cost of such steps, operations or assistance as a simple contract debt in a court of competent jurisdiction from such person as the local authority satisfies the court is the person whose act or omission necessitated such steps, operations or assistance.

Notification of accidental discharges.

14.—(1) As soon as practicable after the occurrence of an accidental discharge, spillage or deposit of any poisonous, noxious or 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.

(2) A person who fails to comply with *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250.

(3) A prosecution for an offence under this section may be taken by a local authority or a sanitary authority.

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.

(3) A plan under this section may be revised or replaced from time to time.

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

(5) A plan under this section shall not contain any provision inconsistent with regulations under *section 25*.

(6) As soon as practicable after a plan under this section is made, revised or replaced, a copy of the plan as so made, revised or replaced shall be furnished by the local authority concerned to the Minister, to the Minister for Agriculture and Fisheries, to local authorities whose functional areas adjoin that of the authority making, revising or replacing the plan, to sanitary authorities and to boards of conservators in the functional area of that authority.

(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 preparation, 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 day 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 25*.

(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;

(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;

(*b*) require defrayment of or contribution towards (by the payment of a capital sum or an annual charge or both) the cost incurred by the sanitary authority in monitoring, treating or disposing of a discharge, and

(*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 poisonous, noxious or polluting matter, including sewage, to any drain or sewer provided solely for the reception or disposal of storm water.

(8) A person who contravenes *subsection (1)* or *(7)* shall be guilty of an offence and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £250 (together with, in the case of a continuing offence, a fine not exceeding £100 for every day on which the contravention is continued) or to imprisonment for a term not exceeding six months or, at the discretion of the court, to both such fine or fines and such imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding £5,000 (together with, in the case of a continuing offence, a fine not exceeding £500 for every day on which the contravention is continued) or to imprisonment for a term not exceeding two years or, at the discretion of the court, to both such fine or fines and such imprisonment.

(9) A prosecution for an offence under this section may be taken by a sanitary authority.

(10) The Minister may, after consultation with the Minister for Agriculture and 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.

(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.

(2) As soon as may be after it has completed a review under this section, a sanitary authority may amend or delete any condition attached to the licence or attach new conditions to the licence, and where appropriate shall grant a revised licence under *section 16* in substitution for the licence reviewed.

(3) Notwithstanding any other provision of this Act or any provision in a licence under *section 16*—

(*a*) any such licence may be reviewed at any time by the sanitary authority which granted it where the authority has reasonable grounds for believing the discharge authorised by the licence to be a significant threat to public health or where a material change (which could not reasonably have been foreseen when the licence was granted) has taken place in conditions in the waters to which the sewer discharges,

(*b*) where regulations under *section 25* relate to a trade effluent the discharge of which is authorised by such a licence, the licence shall be reviewed by the sanitary authority which granted it as soon as may be after the regulations are made,

(*c*) where regulations under *section 25* relate to sewage effluent from a sewer or to waters to which sewage effluent from a sewer discharges, any such licence which authorises the discharge of trade effluent to the sewer shall be reviewed by the sanitary authority which granted it as soon as may be after the regulations are made,

and *subsection (2)* shall apply to a review under this subsection.

(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.

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 25* 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.

(3) 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 in writing which is false or to his knowledge misleading in a material respect shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(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) A prosecution for an offence under this section may be taken by the Minister or a sanitary authority.

Appeals in relation to *sections 16* and *17*.

20.—(1) A person to whom a licence under *section 16* has been refused, or granted subject to conditions, may appeal to the Minister in relation to the refusal to grant such a licence, the conditions attached to such a licence or amendment or deletion of conditions attached to or attachment of new conditions to such a licence on review.

(2) The Minister, after consideration of an appeal under this section, shall either (as he thinks proper) refuse the appeal or give appropriate directions to the sanitary authority concerned relating to the granting of a licence or the attachment, amendment or deletion of conditions, and, where such directions are given, the authority shall, as soon as may be after receipt of the directions, comply with them.

Monitoring, etc. by local authorities and sanitary authorities.

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

(*a*) shall carry out or cause to be carried out or arrange for such monitoring, sampling, measurement or analysis 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.

22.—(1) A local authority may, for any purpose relating to its functions under this Act, by notice in writing require any person who is abstracting water from or discharging, or causing or permitting the discharge of, effluent or other matter to any waters to state in writing to the authority, within a specified time not less than 14 days after being so required, such particulars of the abstraction or discharge as may be specified in the notice.

(2) A sanitary authority may, for any purpose relating to its functions under this Act, by notice in writing require any person making, causing or permitting a discharge to a sewer to state in writing to the authority, within a specified time not less than 14 days after being so required, such particulars of the discharge as may be specified in the notice.

(3) Every person who is required under this section to state any matter or thing to a local authority or sanitary authority and either fails to do so within the time appointed under this section or, when so stating, makes a statement in writing which is false or to his knowledge misleading in a material respect, shall be guilty of an

offence and shall be liable on summary conviction to a fine not exceeding £100.

(4) A prosecution for an offence under this section may be taken by a local authority or a sanitary authority.

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

23.—The Minister may, after consultation with the Minister for Agriculture and Fisheries, the Minister for Industry and Commerce and any other Minister who appears to him to be interested, 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.

24.—(1) The Minister may, after consultation with the Minister for the Public Service, 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, 1939, No. 14.

(iv) the Local Government (Superannuation) Act, 1956, and 1956, No. 10.

(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.

25.—(1) The Minister may, after consultation with the Minister for Agriculture and Fisheries, the Minister for Industry and Commerce and any other Minister who appears to him to be interested, 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.

(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.

Regulations restricting use of certain vessels.

26.—(1) The Minister may, after consultation with the Minister for Transport and Power and the Commissioners of Public Works in Ireland, 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) A sanitary authority may provide facilities for the reception and disposal of sewage from vessels and may impose fees or other charges for the use of such facilities.

(3) A person who contravenes a provision in a regulation under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250, together with, in the case of a continuing contravention, a further fine of £100 for every day on which the contravention is continued.

(4) A prosecution for an offence under this section may be taken by a local authority.

Powers of entry, inspection, etc.

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

(*a*) performing a function under this Act,

(*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 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.

(4) A person who obstructs an authorised person in the performance of his duties under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250 or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(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) A prosecution for an offence under this section may be taken by the Minister for Agriculture and Fisheries, a local authority, a sanitary authority, a board of conservators or the Minister.

(9) In this section—

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

Research, etc. into water pollution.

28.—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.

29.—(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.

30.—Where under this Act a local authority may prosecute for an offence, the authority may so prosecute whether or not the offence occurred in (or in respect of waters in) the authority's functional area.

Service of notices under Act.

31.—(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. 1963, No. 33.

Commencement.

32.—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.

33.—The following are hereby repealed—

(*a*) the Rivers Pollution Prevention Act, 1876. 1876, c.75.

(*b*) the Rivers Pollution Prevention Act, 1893. 1893, c.31.

(*c*) sections 171 and 172 of the Fisheries (Consolidation) Act, 1959. 1959, No. 14.

Expenses.

34.—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.

Short title.

35.—This Act may be cited as the Local Government (Water Pollution) Act, 1976.

AN BILLE RIALTAIS AITIUIL (TRUAILLIU UISCE), 1976

BILLE

(mar a tugadh isteach)

dá ngairtear

Acht do dhéanamh socrú chun truailliú uisce a shrianadh agus le haghaidh nithe eile a bhaineann le truailliú uisce.

An Seanadóir Micheál Ó hUiginn a thug isteach

Ordaíodh ag Seanad Éireann *a chlóbhualadh, 25 Feabhra,* 1976

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais An Stuara, Árd Oifig an Phoist, Baile Átha Cliath, nó trí aon díoltóir leabhar.

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LOCAL GOVERNMENT (WATER POLLUTION) BILL, 1976

BILL

(as introduced)

entitled

An Act to provide for the control of water pollution and for other matters connected with water pollution.

Introduced by Senator Michael J. O'Higgins

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