

The Law and Practice Relating to Pollution Control in the Federal Republic of Germany

Second Edition

Prepared by
J Salzwedel and W Preusker
for

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The Law and Practice Relating to Pollution Control in the Federal Republic of Germany

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Prepared by

Professor Dr Jürgen Salzwedel
Institute for Water Management Law
of the University of Bonn

Assessor Werner Preusker

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Preface

This volume is part of a series prepared in the performance of a contract between the Commission of the European Communities and Environmental Resources Limited (ERL). ERL is a consulting organisation specialising in environmental research, planning and management.

In 1976 a first series was published covering the, then, nine members of the Community. The purpose of those volumes was to explain the law and practice of pollution control in each of the Member States and to provide a summary comparing all the countries in a separate comparative volume.

Since that time many changes in legislation arising from both national and Community-wide initiatives have occurred. ERL was therefore asked to prepare a new series providing an up-to-date review of the law and practice relating to pollution control in the Member States of the European Community.

The series comprises nine volumes concerning the law and practice in the Member States:

Belgium and Luxembourg	Ireland
Denmark	Italy
France	The Netherlands
The Federal Republic of Germany	The United Kingdom
Greece	

and a summary comparative volume.

The aim of this new series, as in the first, is to provide a concise but fully referenced summary of the letter of the law, and a discussion of its implementation and enforcement in practice. Proposals for new legislation which has been drafted but not yet passed are outlined. Where laws have been introduced to comply with Community-wide requirements this is noted.

PREFACE

The publication has two principal objectives:

to enable the reader to study in outline the provisions in any one Member State; and

to enable a direct comparison between different Member States.

To facilitate comparison between the national reports, each is indexed following a standard format (the Classified Index) to enable easy reference to the relevant sections of each report.

Presenting a nation's laws accurately in summary form is always a difficult task. There is a danger that, out of context, they may be misunderstood. We have therefore tried to give, in the first section of each report, some of the constitutional, legal and administrative background.

A further danger lies in translation. Although in the English texts we have tried to prepare as accurate a translation as possible, only the authors' original texts in their native languages carry their full authority. These texts are also being published in the individual Member States.

The statement of law in each volume is correct to at least 30 June 1981; in some cases more recent revisions have been included during the period of preparation for publication.

The series will be updated at regular intervals; to receive further details readers should complete the enclosed postcard and send it to the publisher.

ERL would like to acknowledge and express its thanks for the contributions from the national authors and for their cooperation in the preparation of the series.

Finally, ERL also acknowledges the assistance provided by many agencies, which have freely given information and advice, and the help and guidance given by Monsieur Claude Pleinevaux, Mr Grant Lawrence and other members of the Directorate of Environment, Consumer Protection and Nuclear Safety of the Commission of the European Communities.

1982

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London

Relevant Laws and Regulations

GENERAL

The Basic Law of the Federal Republic of Germany (GG) of 23 May 1949 (BGBl, I, p. 1), last amended by the law of 23 August 1976 (BGBl, I, p. 2383).
Civil Code (BGB) of 18 August 1896 (RGBl, p. 195), last amended by the law of 18 July 1979 (BGBl, I, p. 1061).

Penal Code (StGB) of 15 May 1871, in the draft of the public announcement of 2 January 1975 (BGBl, I, p. 1), last amended by the law of 28 March 1980 (BGBl, I, p. 373).

Federal Building Law (BBauG) of 23 June 1960 (BGBl, I, p. 955), last amended by the law of 6 July 1979 (BGBl, I, p. 949).

Environmental Planning Law (RaumOrdG) of 8 April 1965 (BGBl, I, p. 306), last amended by the law of 20 December 1976 (BGBl, I, p. 3573).

The Law on Environmental Statistics of 15 August 1974 (BGBl, I, p. 1938), amended by the law of 18 August 1976 (BGBl, I, p. 2194).

AIR

The Law for the Protection from Harmful Effects from Air Pollution, Noise, Vibrations and Similar Incidents (Federal Immission Control Law—BImSchG) of 15 March 1974 (BGBl, I, p. 721 and correction p. 1193), last amended by the law of 28 March 1980 (BGBl, I, p. 373).

First General Administrative Regulation under the Federal Immission Control Law (Technical Instructions for Air Quality—TA Luft) of 28 August 1974 (GMBl, p. 426 and correction p. 525).

First Regulation for the Enforcement of the Federal Immission Control Law (Regulation on Foundries) of 28 August 1974 (BGBl, I, p. 2121) and the draft of 5 February 1979 (BGBl, I, p. 165).

Second Regulation for the Enforcement of the Federal Immission Control Law (Regulation on Chemical Clearing Works) of 28 August 1974 (BGBl, I, p. 2130).

RELEVANT LAWS AND REGULATIONS

- Third Regulation for the Enforcement of the Federal Immission Control Law (Regulation on the Sulphur Content of Light Heating-Oil and Diesel Fuel) of 15 January 1975 (BGBl, I, p. 264).
- Fourth Regulation for the Enforcement of the Federal Immission Control Law (Regulation on Works Subject to Licensing) of 14 February 1975 (BGBl, I, p. 499 and correction, p. 727).
- Fifth Regulation for the Enforcement of the Federal Immission Control Law (Regulation on Immission Control Agents) of 14 February 1975 (BGBl, I, p. 504 and correction, p. 727).
- Ninth Regulation for the Enforcement of the Federal Immission Control Law (Principles for Licensing Procedures) of 18 February 1977 (BGBl, I, p. 274).
- Tenth Regulation for the Enforcement of the Federal Immission Control Law (Restrictions on PCBs, PCTs and VCs) of 26 July 1978 (BGBl, I, p. 1138).
- Eleventh Regulation for the Enforcement of the Federal Immission Control Law (Regulation on the Interpretation of the Control Immissions) of 20 December 1978 (BGBl, I, p. 2027).
- The Law on the Reduction of Air Pollution from Lead Compounds in (Otto-) Fuels for Motor Vehicles (Lead-in-Petrol Law) of 5 August 1971 (BGBl, I, p. 1234), last amended by the law of 14 December 1976 (BGBl, I, p. 3341 and correction 1977, p. 667).
- Air Traffic Law (LuftVG) of 1 August 1922 (BGBl, I, p. 681), last amended by the law of 16 August 1977 (BGBl, I, p. 1571).
- Air Traffic Order (LuftVO) of 10 August 1963 (BGBl, I, p. 652), last amended by the regulation of 9 January 1976 (BGBl, I, p. 53 and correction, p. 1097).

INLAND WATER AND SEWERAGE

- The Law on Charging for the Discharge of Effluents into Water (Waste Water Charging Law—AbwAG) of 13 September 1976 (BGBl, I, p. 2721 and correction, p. 3007).
- The Law on the Environmental Impact of Washing and Cleaning Agents (Washing Agents' Law) of 20 August 1975 (BGBl, I, p. 2255).
- Regulation on the Reduction of Anionic and Non-Ionic Active Substances in Washing and Cleaning Agents of 30 January 1977 (BGBl, I, p. 244).
- Water Supply Law (WHG) of 27 July 1957 (BGBl, I, p. 1110 and correction p. 1386), in the draft of the public announcement of 16 October 1976 (BGBl, I, p. 3017), amended by the law of 28 March 1980 (BGBl, I, p. 373).
- Baden-Württemberg Water Law of 25 February 1960 (GBl, p. 369 and correction, p. 532), last amended by the law of 11 December 1979 (GBl, p. 545).
- Bavarian Water Law of 26 July 1962 (GVBl, p. 143 and correction 1963, p. 120), last amended by the law of 12 March 1976 (GVBl, p. 33).
- Berlin Water Law of 23 February 1960 (GVBl, p. 133), last amended by the law of 30 January 1979 (GVBl, p. 183).
- Bremen Water Law of 13 March 1962 (GBl, p. 59), last amended by the law of 18 December 1974 (GBl, p. 351).
- Hamburg Water Law of 20 June 1960 (GVBl, p. 335), last amended by the law of 29 November 1977 (GVBl, p. 363).

- Hesse Water Law of 6 July 1960 (GVBl, p. 69), last amended by the law of 31 January 1978 (GVBl, p. 109).
 Lower Saxony Water Law of 7 July 1960 (GVBl, p. 105), last amended by the law of 1 February 1978 (GVBl, p. 81).
 North Rhine-Westphalia Water Law of 4 July 1979 (GV NW, p. 488).
 Rhineland-Palatinate Water Law of 1 August 1960 (GVBl, p. 153 and correction p. 267), last amended by the law of 5 July 1977 (GVBl, p. 197).
 The Saar Water Law of 28 June 1960 (Official Gazette p. 511), last amended by law no. 1012 of 13 November 1974 (Official Gazette, p. 1011).
 Schleswig-Holstein Water Law of 25 February 1960 (GVBl, p. 39), last amended by the law of 7 May 1979 (GVBl, p. 328).

MARINE POLLUTION

- The Law based on the International Convention for the Prevention of Marine Pollution from Oil 1954 of 21 March 1956 (BGBl, II, p. 379), in the draft of the public announcement of 28 March 1980 (BGBl, I, p. 373).
 The Law for the Temporary Regulation of Rights on the Continental Shelf of 24 July 1964 (BGBl, I, p. 497), last amended by the law of 28 March 1980 (BGBl, I, p. 373).
 The Law based on the Convention of 15 February 1972 and 29 December 1972, for the Prevention of Marine Pollution from the Introduction of Wastes from Shipping and Aircraft (High Seas Introductions Law) of 11 February 1977 (BGBl, II, p. 165), last amended by the law of 28 April 1980 (BGBl, I, p. 606).
 High Seas Introductions Order of 7 December 1977 (BGBl, I, p. 2478).
 Oil Record Book Regulation of 27 February 1979 (BGBl, I, p. 229).

See also laws and regulations under Inland Water and Sewage.

WASTE

- Waste Disposal Law (AbfG) of 7 June 1972 (BGBl, I, p. 873), in the draft of the public announcement of 5 January 1977 (BGBl, I, p. 41 and correction, p. 288), last amended by the law of 28 March 1980 (BGBl, I, p. 373).
 Waste Record Regulation of 2 June 1978 (BGBl, I, p. 668).
 Regulation on the Collection and Transport of Wastes (Waste Transportation Regulation) of 29 July 1934 (BGBl, I, p. 1581).
 Regulation on the Import of Wastes (Waste Import Regulation) of 29 July 1974 (BGBl, I, p. 1584).
 Regulation on the Definition of Wastes of 24 May 1977 (BGBl, I, p. 773).
 The Law on the Disposal of Animal Bodies, Parts of Animal Bodies and Animal Products (Animal Body Disposal Law) of 2 September 1975 (BGBl, I, pp. 2313, 2610).

RELEVANT LAWS AND REGULATIONS

The Law on Measures Ensuring the Disposal of Waste Oils (Waste Oil Law) of 23 December 1968 (BGBl, I, p. 1419), in the draft of the public announcement of 11 December 1979 (BGBl, I, p. 1213).

First Regulation for the Enforcement of the Waste Oil Law of 21 January 1969 (BGBl, I, p. 89), last amended by the regulation of 11 December 1979 (BGBl, I, p. 2126).

Second Regulation for the Enforcement of the Waste Oil Law of 2 December 1971 (BGBl, I, p. 1939).

Baden-Württemberg Waste Law of 18 November 1975 (GBl, p. 757), amended by the law of 11 December 1979 (GBl, p. 544).

Bavarian Waste Law of 25 June 1973 (GVBl, p. 324), last amended by the law of 11 November 1974 (GVBl, p. 610).

Bremen Law to Implement the Waste Disposal Law of 28 January 1975 (GBl, p. 55).

Hamburg Law to Implement the Waste Disposal Law of 6 February 1974 (GVBl, p. 71 and correction, p. 140).

Hesse Waste Law of 13 July 1971 (GVBl, I, p. 191), amended by the law of 16 June 1978 (GVBl, I, p. 396 and correction 1978, p. 500).

Lower Saxony Law to Implement the Waste Disposal Law of 9 April 1973 (GVBl, p. 109).

North Rhine-Westphalia Waste Law of 18 December 1973 (GV NW, p. 561), last amended by the law of 6 March 1979 (GV NW, p. 94).

Rhineland-Palatinate Waste Law of 30 August 1974 (GVBl, p. 374).

The Saar Implementation Law on Waste Disposal of 20 June 1973 (Official Gazette, p. 549).

Schleswig-Holstein Law to Implement the Waste Disposal Law of 26 November 1973 (GVBl, p. 407).

NOISE

General Administrative Regulations on Installations Requiring Licensing, under § 16 of the Industrial Code (Technical Instruction for Noise Control—TA Lärm) of 16 July 1968 (Supplement to the Federal Recorder, no. 137).

See also laws and regulations 12 II.

NUCLEAR ENERGY

The Law on the Peaceful Use of Nuclear Energy and Protection Against its Dangers (Atomic Law, AtG) of 23 December 1959, in the draft of the public announcement of 31 October 1976 (BGBl, I, p. 3053), last amended by the law of 28 March 1980 (BGBl, I, p. 373).

Regulation on the Procedure for Licensing Installations under § 7 of the Atomic Law (Atomic Legislation Procedure Order) of 18 February 1977 (BGBl, I, p. 280).

Regulation on Protection Precautions under the Atomic Law of 25 January 1977 (BGBl, I, p. 220).

Regulation to Protect Against Damage from Ionising Radiation (Radiation Protection Regulation, StrlSchVO) of 13 October 1976 (BGBl, I, p. 2905 and correction 1977, pp. 184, 269).

Regulation on the Protection Against Damage from X-rays (X-ray Regulation, RöVo) of 1 March 1973 (BGBl, I, p. 173), last amended by the regulation of 13 October 1976 (BGBl, I, p. 2905).

PRODUCT CONTROLS

Plant Protection Law of 10 May 1968 (BGBl, I, p. 352), last amended by the law of 16 June 1978 (BGBl, I, p. 749).

Regulation on the Production and Restrictions of Use of Herbicides of 23 July 1971 (BGBl, I, p. 1117), last amended by the regulation of 7 April 1977 (BGBl, I, p. 564).

Regulation on Herbicides in or on Foodstuffs of Plant Origin and Tobacco Products of 13 June 1978 (BGBl, I, p. 718).

Law on the Marketing of DDT of 7 August 1972 (BGBl, I, p. 1385), amended by the law of 2 March 1974 (BGBl, I, p. 469).

Regulation on the Maximum Quantities of DDT and Other Pesticides in or on Food-stuffs of Animal Origin of 15 November 1973 (BGBl, I, p. 1705), amended by the regulation of 16 May 1975 (BGBl, I, p. 1281).

Food-stuffs and Commodities Law of 15 August 1974 (BGBl, I, p. 1945), last amended by the law of 24 August 1976 (BGBl, I, p. 2445).

Chemicals Law of 1980 (Bundestag document 8/3319).

Fertiliser Law of 15 November 1977 (BGBl, I, p. 2134).

See also the Washing Agents Law, the Lead-in-Petrol Law, the Federal Immission Control Law and the Waste Disposal Law.

Important International Conventions Concerning Environmental Protection Ratified by the Federal Republic of Germany and Internationally in Force¹

International Agreement on the Prevention of Marine Pollution from Oil of 12 May 1954 (OILPOL 1954) (BGBl, II, 1956, p. 381) in force since 26 July 1958.

Amendments to the International Agreement of 1954 on the Prevention of Marine Pollution from Oil of 11 April 1962 (OILPOL 1962) (BGBl, II, 1964, p. 757) in force since 18 May 1967 and 28 June 1967.

Amendment to the International Agreement on the Prevention of Marine Pollution from Oil of 21 October 1969 (OILPOL 1969) (announced again) (BGBl, II, 1978, p. 62) in force since 20 January 1978.

Agreement on the Establishment of the European Association for the Chemical Treatment of Irradiated Nuclear Fuels of 20 December 1957 (EUROCHEMIC) (BGBl, II, 1959, p. 622) in force since 27 July 1959.

Agreement on the Establishment of Safety Control in the Field of Nuclear Energy of 20 December 1957 (BGBl, II, 1959, p. 622) in force since 22 July 1959.

Agreement on the High Seas of 29 April 1958 (Geneva High Seas Agreement) (BGBl, II, 1972, p. 1089) in force since 30 September 1962.

International Agreement on the Protection of Human Life at Sea of 17 June 1960 (SOLAS 1960) (BGBl, II, 1960, p. 465) in force since 26 May 1965.

International Agreement on the Protection of Human Life at Sea of November 1979 (SOLAS 1974) (BGBl, II, 1979, p. 141) in force since 25 May 1980.

Agreement on the Liability of Third Parties in the Field of Nuclear Energy of 29 July 1960 (BGBl, II, 1976, p. 310) in force since 1 April 1968.

Additional Convention Concerning the Agreement on the Liability of Third Parties in the Field of Nuclear Energy of 31 March 1963 (BGBl, II, 1975, pp. 957, 1007) in force since 1 April 1968.

1. For all conventions, the dates when they came into force *internationally* are given.

INTERNATIONAL CONVENTIONS

- Additional Protocol Concerning the Additional Convention of 1963 on the Paris Agreement on the Liability of Third Parties in the Field of Nuclear Energy of 28 January 1964 (Federal document 350/74) in force since 4 December 1974.
- Agreement by the International Commission for the Protection of the Rhine from Pollution of 29 April 1963 (BGBl, II, 1965, p. 1433) in force since 1 May 1965.
- Agreement on the Regulation of Water Extraction from Lake Constance of 30 April 1966 (BGBl, II, 1977, p. 2313) in force since 25 November 1967.
- European Agreement on the Restriction of the Use of Certain Detergents in Washing and Cleaning Agents of 16 September 1968 (BGBl, II, 1972, p. 554) in force since 16 February 1971.
- Agreement on Cooperation to Control Oil Pollution in the North Sea of 9 June 1969 (Bonn Convention) (BGBl, II, 1969, p. 2067) in force since 9 August 1969.
- International Agreement on Civil Liability for Oil Pollution Damage of 29 November 1969 (BGBl, II, 1975, p. 301) in force since 19 June 1975.
- International Agreement on Measures to be Taken at Sea Concerning Oil Pollution Accidents of 29 November 1969 (Federal document 263/74) in force since 6 May 1975.
- Agreement on Civil Liability Concerning the Transport of Nuclear Material at Sea of 17 December 1971 (Federal document 350/74) in force since 15 July 1975.
- International Agreement on the Establishment of an International Fund for Compensation of Oil Pollution Damage of 18 December 1971 (Federal document 216/74) in force since 16 October 1978.
- Agreement on the Prevention of Marine Pollution by Introductions from Shipping and Aircraft of 15 February 1972 (OSLO Convention) (BGBl, II, 1977, p. 169) in force since 7 April 1974.
- Agreement on the Prevention of Marine Pollution from the Introduction of Wastes and Other Substances of 29 December 1972 (LONDON Convention) (BGBl, II, 1977, p. 181) in force since 30 August 1975.
- Convention on the Protection of the Marine Environment in the Baltic of 22 March 1974 (HELSINKI Convention) (BGBl, II, 1979, p. 1229) in force since 3 May 1980.
- Agreement on the Prevention of Marine Pollution from the Land based on the 4 June 1974 PARIS Convention (Official Journal of the EEC, No. L 194) in force since 6 May 1978.
- Agreement on the Protection of the Rhine from Chemical Pollution of 3 December 1976 (Rhine-Chemistry-Convention) (Official Journal of the EEC, No. L 240) in force since 1 February 1979.
- The Länder of Bavaria and Baden-Württemberg (also Austria and Switzerland) signed the 'Agreement on the Protection of Lake Constance from Pollution' on 27 October 1960 (Bodensee Convention) (BayGVBl, p. 237, BW GBl, 1962, p. 1) in force since 10 November 1961.

ABBREVIATIONS

AbfG	Abfallbeseitigungsgesetz: Waste Disposal Law 1972
AbwAG (AAG)	Abwasserabgabengesetz: Waste Water Charging Law 1976
Amtsbl	Amtsblatt: Official Gazette
Art	Artikel: article
BBauG	Bundesbaugesetz: Federal Building Law
BGB	Bürgerliches Gesetzbuch: Civil Code
BGBI	Bundesgesetzblatt: Federal Law Gazette
BGHZ	Entscheidungen des Bundesgerichtshofes in Zivilsachen (amtliche Sammlung): Decision of the Federal Courts in Civil cases
BImSchG	Bundes-Immissionsschutzgesetz: Federal Immission Control Law
BMI	Bundes Ministerium des Innern: Federal Interior Ministry
BVerfGE	Entscheidungen des Bundesverfassungsgerichts (amtliche Sammlung): Decisions of the Federal Constitutional Court
BVerwGE	Entscheidungen des Bundesverwaltungsgerichts (amtliche Sammlung): Decisions of the Federal Administrative Court
DHI	Deutsche Hydrographisches Institut: German Hydrographic Institute
DIN	Deutsche Industrie-Norm: German Industrial Standards
EGBGB	Einführungsgesetz zum Bürgerlichen Gesetzbuch: Introductory Law to the Civil Code
GG	Grundgesetz: Constitution
GV, GVBl	Gesetzes- und Verordnungsblatt: Law and Regulations Gazette
GewO	Gewerbeordnung: Industrial Code
LAWA	Länderarbeitsgemeinschaft Wasser: Association of Land Water Authorities
LWG	Landeswassergesetz
MARPOL	International Convention for the Prevention of Pollution from Ships
NJW	Neue Juristische Wochenschrift (New Law Weekly)
OILPOL	International Convention for the Prevention of Pollution of the Sea by Oil
OVG	Oberverwaltungsgericht: Upper Administrative Court
RGBl	Reichsgesetzblatt: State Gazette
SOLAS	International Safety of Life at Sea
StGB	Strafgesetzbuch: Penal Code

Detailed List of Contents

Summary List of Contents	v
Preface	vii
Relevant Laws and Regulations	xix
Important International Conventions Concerning Environmental Protection Ratified by the Federal Republic of Germany and Internationally in Force	xxv
Abbreviations	xxvii

1 Constitution, Administrative Authorities, Pressure Groups, Rights of the Individual	1
1.1 The Constitution	1
1.1.1 Powers of the Federal Government, the Länder and the Local Authorities	1
1.1.2 Legislation in the Federal Republic	2
1.1.3 Federal Legislation	2
1.1.3.1 Exclusive legislation	2
1.1.3.2 Conflicting legislation	3
1.1.3.3 Framework legislation	5
1.1.3.4 Laws concerning community responsibilities	5
1.1.4 Länder Legislation	5
1.1.5 General Administrative Authority of the Gemeinden	6
1.1.6 National Administration	7
1.1.6.1 Division of responsibility between the Federal Government and the Länder	7
1.1.6.2 Federal administration	7
1.1.6.3 Länder administration	8
1.2 Legal Sources Relevant for Environmental Protection	9
1.3 Government Departments for Supervising, Administering and Carrying Out Environmental Protection Measures	10
1.3.1 Federal Government Departments	10
1.3.2 Länder Government Departments	13

CONTENTS

1.4	Authorities and Public Bodies with Authority for Environmental Protection	14
1.4.1	Federal Authorities	14
1.4.2	Länder Authorities	14
1.4.3	Public Corporations	15
1.5	Independent Advisory Councils with Legal Rights and Duties for Environmental Protection	16
1.6	Interested Groups Representing Those Responsible for Environmental Pollution and Those Trying to Reduce Pollution	18
1.7	Legal Actions of Individuals Against Environmental Pollution	19
1.7.1	General Actions	19
1.7.2	Civil Law	19
1.7.3	Administrative Law	20
1.7.4	Criminal Law	21
2	Air	24
2.1	Stationary Installations	28
2.1.1	Control by Development Planning	28
2.1.2	Control over Works and Operating Processes (Including Raw Materials)	32
2.1.2.1	Licensing of stationary installations	34
2.1.2.2	Stationary installations not requiring a licence	39
2.1.2.3	Nature of fuels, raw materials and products	41
2.1.3	Regulations on Exhaust Gases	42
2.1.4	Emission Limits	45
2.1.4.1	General standards	45
2.1.4.2	Standards for particular types of works	47
2.1.5	Monitoring by the Operator of the Works	48
2.1.5.1	Measurements	49
2.1.5.2	Immission control officers	49
2.1.5.3	Precautionary measures to prevent pollution	51
2.1.6	Enforcement and Monitoring by the Responsible Authority or on the Orders of the Authority	52
2.1.6.1	Measurements	52
2.1.6.2	Measures for enforcing the air purification regulations	53
2.1.6.3	The imposition of punishments and fines	55
2.1.7	Air Quality Standards	57
2.1.7.1	Immission standards	57
2.1.7.2	Indications of an improvement in air quality	58
2.1.8	Rights of the Individual	62
2.1.8.1	Rights to information	62
2.1.8.2	Complaints Against a Works' Licence	63
2.1.8.3	Consideration of complaints and objections	63

2.1.8.4	Possibilities for individuals to enforce environmental protection regulations	64
2.1.8.5	Compensation and temporary legal protection	64
2.2	Road Vehicles	65
2.2.1	Design and Building Regulations	67
2.2.2	Maintenance Standards	68
2.2.3	Regulations Concerning Vehicle Use	68
2.2.4	Fuels	69
2.2.5	Enforcement and Monitoring by the Authorities or on their Behalf	70
2.2.6	Rights of the Individual	71
2.2.7	Roadworks	71
2.3	Aircraft, Hovercraft and Shipping	71
2.3.1	Aircraft	71
2.3.2	Hovercraft	72
2.3.3	Ships and Other Water-borne Craft	73
3	Inland Waters (Including Groundwaters)	79
3.1	Introduction	79
3.1.1	Water Legislation	79
3.1.2	'Uses' of Water	80
3.1.3	Water Ownership	81
3.1.4	Enforcement of Water Legislation	82
3.1.5	Permits and Consents	82
3.2	Permanent Installations	84
3.2.1	Control by Means of Building Plans	84
3.2.2	Works and Processes Near Inland Waters (Including Rubbish Tips)	86
3.2.2.1	General regulations	86
3.2.2.2	Pipeline installations for the transport of water-polluting substances	86
3.2.2.3	Installations for storing, transferring and transporting water-polluting substances	87
3.2.2.4	Refuse tips	89
3.2.3	Pre-treatment of Discharges; Waste Water Installations	89
3.2.4	Composition, Quantity and Type of Discharges	91
3.2.5	Waste Water Disposal by Irrigation or Discharge into Groundwater	93
3.2.6	Self-monitoring by the Discharger	94
3.2.6.1	Self-monitoring as a requirement for a permit to discharge	94
3.2.6.2	Authorised water protection agents	94
3.2.6.3	Self-monitoring for effluent charges	96

CONTENTS

3.2.7	Enforcement and Monitoring by the Authorities or Under Official Orders	96
3.2.7.1	Monitoring	96
3.2.7.2	Official enforcement measures	97
3.2.7.3	Effluent charges	98
3.2.7.4	Regulations concerning punishments and fines	100
3.2.7.5	Neighbours' rights and liability	102
3.2.8	Water Quality Standards	103
3.2.8.1	Regulations, objectives and guidelines	103
3.2.8.2	An indication of the extent of compliance with the water quality standards	105
3.2.8.3	Limitations of water uses if the water does not meet the required standards	106
3.2.9	Rights of the Individual	106
3.2.9.1	Rights to information	106
3.2.9.2	Objections against a discharge permit	107
3.2.9.3	The consideration of complaints and objections	110
3.2.9.4	Possibilities of the individual to enforce regulations	111
3.2.9.5	Compensation and temporary legal protection	111
3.3	Pollution by Water-borne Craft	112
3.3.1	Building Regulations	112
3.3.2	Regulations Governing the Operation of Water-borne Craft	112
3.3.3	Enforcement of Regulations	113
3.3.4	Rights of the Individual	113
4	Seas—Pollution by Substances other than Oil	118
4.1	Coastal Waters	118
4.1.1	Definition of Coastal Waters	119
4.1.1.1	Boundary between inland and coastal waters	119
4.1.1.2	Boundary between coastal waters and the high seas	119
4.1.2	Control by Building Plans	119
4.1.3	Installations and Operations near Coastal Waters (Including Refuse Tips)	120
4.1.4	Pre-treatment of Discharges	120
4.1.5	Composition, Volume and Type of Discharge	120
4.1.6	Self-monitoring by the Discharger	121
4.1.7	Enforcement and Monitoring by the Authorities, and on their Behalf	121
4.1.8	Water Quality Standards	121
4.1.9	Rights of the Individual	121
4.2	Introduction of Waste Materials by Ships and Aircraft	121
4.2.1	Geographical Extent of National Authority	121
4.2.2	Regulations Governing Refuse Disposal on the High Seas	123
4.2.2.1	International agreements	123
4.2.2.2	German law	126
4.2.3	Enforcement and Monitoring	128