

Environmental Protection Act 1990 c. 43

s. 33 Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.

Partially In Force With Amendments Pending

Version 21 of 23

7 February 2023 - Present

Subjects

Criminal law; Environment

Keywords

Harmful disposal of waste; Offences

England and Wales

33.— Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.

(1) Subject to [subsections (1A), (1B), (2) and (3) below]¹[...] a person shall not—

(a) deposit controlled waste [or extractive waste]³, or knowingly cause or knowingly permit controlled waste [or extractive waste]³ to be deposited in or on any land unless [an environmental permit]¹ authorising the deposit is in force and the deposit is in accordance with [the permit]¹;

[

(b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation (other than an operation within subsection (1)(a)) that—

(i) is carried out in or on any land, or by means of any mobile plant, and

(ii) is not carried out under and in accordance with an environmental permit;

]¹

(c) treat, keep or dispose of controlled waste [or extractive waste]³ in a manner likely to cause pollution of the environment or harm to human health.

[

(1A) Paragraphs (a) and (b) of subsection (1) above do not apply in relation to a waste operation that is an exempt waste operation.

- [
- (1B) Subsection (1) does not apply in relation to any part of a waste operation that—
- (a) is the subject of a marine licence under the [Marine and Coastal Access Act 2009](#); or
 - (b) does not require such a licence by virtue of any provision made by or under [section 74](#), [75^s](#) or [77](#) of that Act and does not involve the dismantling of a ship that is waste.

]⁴]

(2) Subject to subsection (2A) below, paragraphs (a) and (b) of subsection (1) above do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the property.

(2A) Subsection (2) above does not apply to the treatment, keeping or disposal of household waste by an establishment or undertaking.

]⁶

(3) Subsection (1)(a), (b) or (c) above do not apply in cases prescribed in regulations made by the Secretary of State and the regulations may make different exceptions for different areas.

(4) The Secretary of State, in exercising his power under subsection (3) above, shall have regard in particular to the expediency of excluding from [the prohibitions in subsection (1)]¹ —

- (a) any deposits which are small enough or of such a temporary nature that they may be so excluded;
- (b) any means of treatment or disposal which are innocuous enough to be so excluded;
- (c) cases for which adequate controls are provided by another enactment than this section.

(5) Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a) above, be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

(6) A person who contravenes subsection (1) above [...] ¹ commits an offence.

(7) It shall be a defence for a person charged with an offence under this section to prove—

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

[...] ⁷]

(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

- (i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and

- (ii) particulars of the acts were furnished to the waste regulation authority as soon as reasonably practicable after they were done.

]⁸
[

(8) [Subject to subsection (9) below, a]⁶ person who commits an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding [the general limit in a magistrates' court]¹⁰ or [a fine]¹¹ or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.[...]⁶

]⁹[

(9) A person (other than an establishment or undertaking) who commits a relevant offence shall be liable [on summary conviction, or on conviction on indictment, to a fine.]¹²[...]¹²

(10) In this section, “*relevant offence*” means an offence under this section in respect of a contravention of subsection (1)(c) above consisting of the treatment, keeping or disposal within the curtilage of a domestic property of household waste from that property.[...]¹

]⁶[

(11) For the purposes of subsection (1)(a) above, the deposit of waste in or on land includes any listed operation involving such a deposit.

(12) For the purposes of subsection (1)(c) above, treating, keeping or disposing of controlled waste includes submitting it to any listed operation.

(13) For the purposes of this section, a “listed operation” is an operation listed in [Annex I or II of the Waste Framework Directive]¹³.

]¹

Scotland

33.— Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.

(1) Subject to subsection (2) [, (2B)]¹⁴ and (3) below [...] ² a person shall not—

(a) deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence;

(b) treat, keep or dispose of controlled waste, or knowingly cause or knowingly permit controlled waste to be treated, kept or disposed of—

(i) in or on any land, or

(ii) by means of any mobile plant,

except under and in accordance with a waste management licence;

(c) [keep or manage]¹⁵ controlled waste in a manner likely to cause pollution of the environment or harm to human health.

(2) Subject to subsection (2A) below, paragraphs (a) and (b) of subsection (1) above do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the dwelling.

(2A) Subsection (2) above does not extend to the treatment, keeping or disposal of household waste by an establishment or undertaking.

[

(2B) Paragraphs (a) and (b) of subsection (1) above do not apply to the deposit or keeping of a waste portable battery or accumulator at a collection point set up to comply with Article 8(1)(a) of Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators [as last amended by Directive (EU) 2018/849 of the European Parliament and of the Council¹⁷]¹⁶ (in this section, “the Batteries Directive”).

(2C) In subsection (2B) above, “*portable battery or accumulator*” has the meaning given by Article 3(3) of the Batteries Directive, but does not include any battery or accumulator excluded from the scope of that Directive by Article 2(2).

]¹⁴[

(2D) When interpreting the Batteries Directive for the purposes of this section, Article 2(2) is to be read as though for the words “Member States” there were substituted “the United Kingdom’s”.

]¹⁸

(3) Subsection (1)(a), (b) or (c) above do not apply in cases prescribed in regulations made by the Secretary of State and the regulations may make different exceptions for different areas.

(4) The Secretary of State, in exercising his power under subsection (3) above, shall have regard in particular to the expediency of excluding from the controls imposed by waste management licences—

(a) any deposits which are small enough or of such a temporary nature that they may be so excluded;

(b) any means of treatment or disposal which are innocuous enough to be so excluded;

(c) cases for which adequate controls are provided by another enactment than this section.

(5) Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a) above, be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

(6) A person who contravenes subsection (1) above or any condition of a waste management licence commits an offence.

(7) It shall be a defence for a person charged with an offence under this section to prove—

(a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the acts done by him constituted a contravention of subsection (1) above; or

(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

(i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and

(ii) particulars of the acts were furnished to the waste regulation authority as soon as reasonably practicable after they were done.

(8) Except in a case falling within subsection (9) or (10) below, a person who commits an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £40,000 or both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(9) A person who commits an offence under this section in relation to special waste (other than household waste of the description specified in subsection (10) below) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £40,000 or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.

(10) A person who commits an offence under subsection (1)(c) above in relation to household waste from a domestic property within the curtilage of the dwelling shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

[

(11) In subsection (4)(c) above, “*enactment*” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

] ¹⁹

Notes

- 1 Amended by Environmental Permitting (England and Wales) Regulations 2007/3538 [Sch.21\(1\) para.4](#) (April 6, 2008)
- 2 Words repealed by Environment Act 1995 c. 25 [Sch.24 para.](#) (April 1, 2015: as SSI 2015/73)
- 3 Amended by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 [Sch.2 para.1\(3\)](#) (July 7, 2009)
- 4 Substituted by Environmental Permitting (England and Wales) Regulations 2016/1154 [Sch.29\(1\) para.6\(4\)](#) (January 1, 2017)
- 5 [Section 75](#) was amended by [S.I. 2011/405](#) and [2016/738](#).
- 6 Amended in relation to England and Wales subject to transitional provisions specified in SI 2006/937 reg.13 by Waste Management (England and Wales) Regulations 2006/937 [reg.2\(2\)](#) (May 15, 2006: amendment has effect subject to transitional provisions specified in SI 2006/937 reg.13)
- 7 Repealed by Clean Neighbourhoods and Environment Act 2005 c. 16 [Sch.5\(4\) para.1](#) (June 7, 2005 for repeals specified in s.108(4)(e)-(f); October 18, 2005 in relation to England for repeals specified in SI 2005/2896 art/3(k); March 16, 2006 in relation to Wales for repeals specified in SI 2006/768 art.2(d); April 6, 2015 for the repeal and purposes specified in SI 2015/425 art.4(2); April 6, 2015 for the repeal specified in SI 2015/425 art.4(3) immediately after the coming into force of SI 2015/426; not yet in force otherwise)
- 8 Substituted by Environment Act 1995 c. 25 [Sch.22 para.64](#) (April 1, 1996)
- 9 S.33(8) substituted for s.38(8)-(9) by Clean Neighbourhoods and Environment Act 2005 c. 16 [Pt 5 c.2 s.41\(1\)](#) (June 7, 2005: substitution has effect subject to transitional provisions specified in 2005 c.16 s.41(2) and (3))
- 10 Words substituted by Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023/149 [Sch.1\(1\) para.1](#) (February 7, 2023 at 12.00)
- 11 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 [Sch.4\(1\) para.22\(3\)\(a\)](#) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))
- 12 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 [Sch.4\(1\) para.22\(3\)\(b\)](#) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))
- 13 Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 [Pt 2 reg.2\(2\)](#) (March 20, 2019)
- 14 Amended by Waste Batteries (Scotland) Regulations 2009/247 (Scottish SI) [reg.3](#) (July 6, 2009)
- 15 Words substituted by Waste (Scotland) Regulations 2011/226 (Scottish SI) [reg.2\(3\)](#) (March 27, 2011)
- 16 Words inserted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) [Pt 2 reg.2\(2\)](#) (December 4, 2020)

Notes

- 17 OJ L 150, 14.6.2018, p.93.
- 18 Added by Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019/26 (Scottish SI) [Pt 5 reg.12\(2\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 19 Added by Regulatory Reform (Scotland) Act 2014 asp 3 (Scottish Act) [Sch.3\(6\) para.40\(2\)](#) (June 30, 2014)

Part II WASTE ON LAND > Prohibition on unauthorised or harmful depositing, treatment or disposal of waste > s. 33
Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.
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s. 34 Duty of care etc. as respects waste.

Law In Force With Amendments Pending

Version 20 of 22

1 August 2025 - Present

Subjects

Environment

England and Wales

[

34.— Duty of care etc. as respects waste.

(1) Subject to subsection (2) below, it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, [as a dealer or broker]³⁴, has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of [section 33](#) above;

[

(aa) to prevent any contravention by any other person of [[regulation 12](#) of the Environmental Permitting Regulations]³⁶ or of a condition of an environmental permit;

]³⁵

(b) to prevent the escape of the waste from his control or that of any other person; and

(c) on the transfer of the waste, to secure—

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section [or [[regulation 12](#) of the Environmental Permitting Regulations]³⁶, or a contravention of a condition of an environmental permit,]³⁷ and to comply with the duty under this subsection as respects the escape of waste.

[

(1A) It shall be the duty of any person who is responsible for the management of extractive waste to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of [section 33](#) above;

(b) to prevent any contravention by another person of [[regulation 12](#) of the Environmental Permitting Regulations]³⁶ or of a condition of an environmental permit; and

(c) to prevent the escape of the waste from his control or that of any other person.

]³⁸

(2) The duty imposed by subsection (1) above does not apply to an occupier of domestic property as respects the household waste produced on the property.

[

(2A) It shall be the duty of the occupier of any domestic property in England [or Wales]⁴⁰ to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes.

]³⁹

(3) The following are authorised persons for the [purposes of subsections (1)(c) and (2A)]⁴¹ above—

(a) any authority which is a waste collection authority for the purposes of this Part;

[

(b) any person who is the holder of an environmental permit in relation to a waste operation;

]⁴²[

(ba) any person who is carrying on an exempt waste operation;

]⁴³

(c) any person to whom [section 33\(1\)](#) above does not apply by virtue of regulations under [subsection \(3\)](#) of that section [or by virtue of regulations under [section 2](#) of the [Pollution Prevention and Control Act 1999](#)]⁴⁴ ;

(d) any person registered as a carrier of controlled waste under [section 2](#) of the [Control of Pollution \(Amendment\) Act 1989](#);

(e) any person who is not required to be so registered by virtue of regulations under [section 1\(3\)](#) of that Act; and

(f) a waste disposal authority in Scotland.

(3A) The Secretary of State may by regulations amend subsection (3) above so as to add, whether generally or in such circumstances as may be prescribed in the regulations, any person specified in the regulations, or any description of person so specified, to the persons who are authorised persons for the purposes of [subsections (1)(c) and (2A)]⁴⁵ above.

(4) The following are authorised transport purposes for the purposes of [subsections (1)(c) and (2A)]⁴⁶ above—

(a) the transport of controlled waste within the same premises between different places in those premises;

(b) the transport to a place in Great Britain of controlled waste which has been brought from a country or territory outside Great Britain not having been landed in Great Britain until it arrives at that place; and

(c) the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain;

and “*transport*” has the same meaning in this subsection as in the [Control of Pollution \(Amendment\) Act 1989](#).

(4A) For the purposes of subsection (1)(c)(ii) above—

(a) a transfer of waste in stages shall be treated as taking place when the first stage of the transfer takes place, and

(b) a series of transfers between the same parties of waste of the same description shall be treated as a single transfer taking place when the first of the transfers in the series takes place.

(5) The Secretary of State may, by regulations, make provision imposing requirements on any person who is subject to the duty imposed by subsection (1) above as respects the making and retention of documents and the furnishing of documents or copies of documents.

(6) Any person who fails to comply with the duty imposed by subsection (1) [, (1A)]⁴⁷[or (2A)]⁴⁸ above or with any requirement imposed under subsection (5) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(7) The Secretary of State shall, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing to persons practical guidance on how to discharge the duty imposed on them by subsection (1) above.

(8) The Secretary of State may from time to time revise a code of practice issued under subsection (7) above by revoking, amending or adding to the provisions of the code.

(9) A code of practice prepared in pursuance of subsection (7) above shall be laid—

(a) before both Houses of Parliament; or

(b) if it relates only to Scotland before the Scottish Parliament.

(10) A code of practice issued under subsection (7) above shall be admissible in evidence and if any provision of such a code appears to the court to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(11) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

] ³³

Scotland

34.— Duty of care etc. as respects waste.

(1) Subject to [subsections (1A) and (2)]¹ below, it shall be the duty of any person who imports, produces, [keeps or manages]² controlled waste or, as a broker [or dealer]³, has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of [section 33](#) above;

[

(aa) to prevent a contravention by any other person of [regulation 11](#) of the [Pollution Prevention and Control \(Scotland\) Regulations 2012](#), or of a condition of a permit granted under those Regulations;

] ⁴[

(ab) to prevent any contravention by any other person of subsection (2A), (2E), (2F), (2I) or (2K);

] ⁵

(b) to prevent the escape of the waste from his control or that of any other person; [...] ⁶

[

(ba) on the transfer of any waste oil, to ensure that [it is collected separately from other types of waste so as to facilitate a specific treatment,]⁷[unless doing so is not technically feasible, taking into account good practices]⁸; and

] ⁶

(c) on the transfer of the waste, to secure—

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section [or any condition of a permit granted under [regulation 7](#) of those Regulations,]⁹ and to comply with the duty under this subsection as respects the escape of waste.

[

(1A) The duty imposed by subsection (1) does not apply to an occupier of domestic property as respects the household waste produced on the property.

] ¹⁰[

(2) An occupier of domestic property must, as respects the household waste produced on the property, take reasonable steps to secure that any transfer of waste is only to an authorised person or to a person for authorised transport purposes.

] ¹¹[

(2A) It shall be the duty of any person who produces, keeps or manages controlled waste, or as a broker or dealer has

control of such waste, to take all such measures available to that person as are reasonable in the circumstances to apply the waste hierarchy set out in [Article 4(1) of the Waste Framework Directive]¹³.

(2B) The duty in subsection (2A)—

- (a) may be departed from where this is justified having regard to the overall impacts of the generation and management of such waste; and
- (b) does not apply to an occupier of domestic property as respects the household waste produced on the property.

(2C) The Scottish Ministers may give guidance on the discharge of the duty in subsection (2A), including the circumstances in which that duty may be departed from under subsection (2B)(a).

(2D) A person seeking to discharge the duty in subsection (2A) must, in doing so, have regard to any guidance given under subsection (2C).

] ¹²[

(2E) It shall, from 1st January 2014, be the duty of any person who produces controlled waste (other than an occupier of domestic property as respects household waste produced on the property) to take all reasonable steps to ensure the separate collection of dry recyclable waste.

(2F) It shall, from 1st January 2014, be the duty of any person who controls or manages a food business that produces controlled waste to take all reasonable steps to ensure the separate collection of food waste produced by the business.

(2G) The duty in subsection (2F) does not apply to food waste—

- (a) produced on premises in a rural area;
- (b) produced in the period beginning on 1st January 2014 and ending on 31st December 2015—
 - (i) on premises in use as a hospital (as defined in [section 108](#) of the [National Health Service \(Scotland\) Act 1978](#)); or
 - (ii) by a business that produces less than 50 kilograms of food waste a week;
- (c) produced, on or after 1st January 2016, by a business that produces less than 5 kilograms of food waste a week;
- (d) that includes catering waste that originates from means of transport operating internationally.

(2H) The duty in subsection (2F) may be departed from where food waste is mixed with other biodegradable waste to the extent that the mixed waste is presented for collection in a manner that ensures that the amount of food waste collected is not significantly less than would be the case were the wastes not mixed.

(2I) It shall be the duty of any person who transports controlled waste to collect and transport separately from other waste

any waste presented—

- (a) for collection in accordance with subsection (2E) or (2F);
- (b) for collection in a receptacle provided under an arrangement made in accordance with [section 45C\(2\)](#) or (5).

(2J) The duties in subsection (2E) or (2I) may be departed from where dry recyclable waste is managed in such a manner as will ensure that—[

- (a) the output is of comparable quantity and quality to that achieved through separate collection, and

] ¹⁵

- (b) the waste is not mixed with other waste that cannot be recycled.

(2K) It shall, from 1st January 2016, be the duty of any person who produces food waste (other than an occupier of domestic property as respects household waste, or an occupier of property in a rural area as respects food waste, produced on such properties) to ensure that food waste is not deposited in a public drain or sewer, or in a drain or sewer that connects to a public drain or sewer.

(2L) It shall be the duty of any person who produces or manages controlled waste, or who as a broker or dealer has control of such waste, to take all reasonable steps to—

- (a) ensure that the waste meets any quality standard for the management of material included in the waste;
- (b) ensure that the waste is managed in a manner that promotes high quality recycling; and
- (c) prevent any contravention by another person of this subsection.

] ¹⁴

(3) The following are authorised persons for the purpose of subsection (1)(c) above—

- (a) any authority which is a waste collection authority for the purposes of this Part;
- (b) any person who is the holder of a waste management licence under [section 35](#) below [...]¹⁶;
- (c) any person to whom [section 33\(1\)](#) above does not apply by virtue of regulations under [subsection \(3\)](#) of that section;
- (d) any person registered as a carrier of controlled waste under [section 2](#) of the [Control of Pollution \(Amendment\) Act 1989](#);
- (e) any person who is not required to be so registered by virtue of regulations under [section 1\(3\)](#) of that Act; and

- (f) a waste disposal authority in Scotland.

[

(3A) The Secretary of State may by regulations amend subsection (3) above so as to add, whether generally or in such circumstances as may be prescribed in the regulations, any person specified in the regulations, or any description of person so specified, to the persons who are authorised persons for the purposes of subsection (1)(c) above.

] ¹⁷

(4) The following are authorised transport purposes for the purposes of subsection (1)(c) above—

- (a) the transport of controlled waste within the same premises between different places in those premises;
- (b) the transport to a place in Great Britain of controlled waste which has been brought from a country or territory outside Great Britain not having been landed in Great Britain until it arrives at that place; and
- (c) the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain;

and “*transport*” has the same meaning in this subsection as in the [Control of Pollution \(Amendment\) Act 1989](#).

[

(4A) For the purposes of subsection (1)(c)(ii) above—

- (a) a transfer of waste in stages shall be treated as taking place when the first stage of the transfer takes place, and
- (b) a series of transfers between the same parties of waste of the same description shall be treated as a single transfer taking place when the first of the transfers in the series takes place.

] ¹⁸

(4AB) In subsection (1)(c), a reference to a written description of the waste includes a description that is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

] ¹⁹

(4B) In this section—

[

“*business*” includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by a council constituted under [section 2](#) of the [Local Government etc. \(Scotland\) Act 1994](#)²² or any other public authority;

“*drain*” , “*public drain*” , “*public sewer*” and “*sewer*” have the same meanings as in [section 59](#) of the [Sewerage \(Scotland\) Act 1968](#)²³;

“*food business*” means an undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the processing, distribution, preparation or sale of food;

“*rural area*” means a remote small town, accessible rural area or remote rural area as described by reference to postcode units in table 2 of “Defining Rural Areas and Non-Rural Areas to support Zero Waste Policies”²⁴, published by the Scottish Government on 13th March 2012;

]²¹

“*waste oil*” means any mineral or synthetic lubrication or industrial oil which has become unfit for the use for which it was originally intended, such as used combustion engine oil and gearbox oil, lubricating oil, oil for turbines and hydraulic oil.

]²⁰

(5) The Secretary of State may, by regulations, make provision imposing requirements on any person who is subject to [a duty imposed by subsection (1), (2E), (2F), (2I), (2K) or (2L)]²⁵ above as respects the making and retention of documents and the furnishing of documents or copies of documents.

(6) Any person who fails [without reasonable excuse]²⁶ to comply with the [duties imposed by subsections (1) [, [(2),]²⁹ (2A), (2E), (2F), (2I), (2K) or (2L)]²⁸]²⁷ above or with any requirement imposed under subsection (5) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(7) The Secretary of State shall, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing to persons practical guidance on how to discharge the [duty imposed on them by subsection (1), [(2),]³¹ (2E), (2F), (2I), (2K) or (2L)]³⁰ .

(8) The Secretary of State may from time to time revise a code of practice issued under subsection (7) above by revoking, amending or adding to the provisions of the code.

(9) [A]³² code of practice prepared in pursuance of subsection (7) above shall be laid [—]³²[

(a) before both Houses of Parliament;or

(b) if it relates only to Scotland before the Scottish Parliament.

]³²

(10) A code of practice issued under subsection (7) above shall be admissible in evidence and if any provision of such a code appears to the court to be relevant to any question arising in the proceedings it shall be taken into account in

determining that question.

(11) Different codes of practice may be prepared and issued under subsection (7) above for different areas.

Notes

- 1 Words substituted by Circular Economy (Scotland) Act 2024 asp 13 (Scottish Act) [s.14\(2\)\(a\)](#) (August 1, 2025 for the purpose of making regulations only; not yet in force otherwise)
- 2 Words substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(a\)\(i\)](#) (May 17, 2012)
- 3 Words inserted by Waste (Scotland) Regulations 2011/226 (Scottish SI) [reg.2\(4\)\(a\)\(i\)](#) (March 27, 2011)
- 4 Substituted by Pollution Prevention and Control (Scotland) Regulations 2012/360 (Scottish SI) [Sch.11\(1\) para.1\(3\)](#) (January 7, 2013: substitution has effect subject to transitional provisions specified in SSI 2012/360 reg.72 and Sch.10)
- 5 Added by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(a\)\(ii\)](#) (May 17, 2012)
- 6 Added by Waste (Scotland) Regulations 2011/226 (Scottish SI) [reg.2\(4\)\(a\)\(ii\)](#) (March 27, 2011)
- 7 Words substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(a\)\(iii\)](#) (May 17, 2012)
- 8 Words substituted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) [Pt 2 reg.2\(3\)\(a\)](#) (December 4, 2020)
- 9 Words inserted by Pollution Prevention and Control (Scotland) Regulations 2000/323 (Scottish SI) [Sch.10\(1\) para.3\(3\)\(b\)](#) (September 28, 2000)
- 10 Added by Circular Economy (Scotland) Act 2024 asp 13 (Scottish Act) [s.14\(2\)\(b\)](#) (August 1, 2025 for the purpose of making regulations only; not yet in force otherwise)
- 11 Substituted by Circular Economy (Scotland) Act 2024 asp 13 (Scottish Act) [s.14\(2\)\(c\)](#) (August 1, 2025 for the purpose of making regulations only; not yet in force otherwise)
- 12 Added by Waste (Scotland) Regulations 2011/226 (Scottish SI) [reg.2\(4\)\(b\)](#) (March 27, 2011)
- 13 Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 [Pt 2 reg.2\(3\)](#) (March 20, 2019)
- 14 Added by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(b\)](#) (May 17, 2012)
- 15 Substituted by Waste (Miscellaneous Amendments) (Scotland) Regulations 2020/314 (Scottish SI) [Pt 2 reg.2\(3\)\(b\)](#) (December 4, 2020)
- 16 Repealed by Environmental Protection Act 1990 c. 43 [Sch.16\(II\) para.1](#) (April 1, 2015: as SSI 2015/72)
- 17 Added by Environment Act 1995 c. 25 [Sch.22 para.65](#) (April 1, 1996)

Notes

- 18 Added by Deregulation and Contracting Out Act 1994 c. 40 [Pt I c.II s.33\(1\)](#) (April 1, 1992: deemed always to have had effect subject to savings specified in 1994 c.40 s.33(2))
- 19 Added by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(c\)](#) (May 17, 2012)
- 20 Added by Waste (Scotland) Regulations 2011/226 (Scottish SI) [reg.2\(4\)\(c\)](#) (March 27, 2011)
- 21 Definition substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(d\)](#) (May 17, 2012)
- 22 [Section 2](#) was amended by [paragraph 232 of Schedule 22](#) to the [Environment Act 1995 \(c.25\)](#).
- 23 [Section 59](#) was amended by [Schedule 29](#) to the [Local Government \(Scotland\) Act 1973 \(c.65\)](#), by [paragraph 64 of Schedule 9](#) to the [Roads \(Scotland\) Act 1984 \(c.54\)](#), by [section 23](#) of and [Schedule 6](#) to the [Abolition of Domestic Rates etc. \(Scotland\) Act 1987 \(c.47\)](#), by [paragraph 103 of Schedule 8](#) to the [New Roads and Street Works Act 1991 \(c.22\)](#), by [paragraph 14 of Schedule 1](#) and [paragraph 75 of Schedule 13](#) to the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), by [paragraph 3 of schedule 3](#) to the [Regulation of Care \(Scotland\) Act 2001 \(asp 8\)](#), by [paragraph 1 of Schedule 24](#) to the [Environment Act 1995 \(c.25\)](#), by [paragraph 41 of schedule 5](#) to the [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), by [section 33](#) of and [paragraph 23 of schedule 3](#) to the [Water Industry and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), and by [S.S.I. 2011/211](#).
- 24 ISBN 978-1-78045-732-1. A postcode unit is an area in relation to which a single postcode is used to facilitate the identification of postal delivery points within the area. A copy of the publication can be obtained from <http://www.scotland.gov.uk/Resource/0038/00389689.pdf>.
- 25 Words substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(e\)](#) (May 17, 2012)
- 26 Words inserted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(f\)\(i\)](#) (May 17, 2012)
- 27 Words substituted by Waste (Scotland) Regulations 2011/226 (Scottish SI) [reg.2\(4\)\(d\)](#) (March 27, 2011)
- 28 Words substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(f\)\(ii\)](#) (May 17, 2012)
- 29 Word inserted by Circular Economy (Scotland) Act 2024 asp 13 (Scottish Act) [s.14\(2\)\(d\)](#) (August 1, 2025 for the purpose of making regulations only; not yet in force otherwise)
- 30 Words substituted by Waste (Scotland) Regulations 2012/148 (Scottish SI) [reg.2\(3\)\(g\)](#) (May 17, 2012)
- 31 Word inserted by Circular Economy (Scotland) Act 2024 asp 13 (Scottish Act) [s.14\(2\)\(e\)](#) (August 1, 2025 for the purpose of making regulations only; not yet in force otherwise)
- 32 Existing text renumbered as s.34(9)(a), word substituted and s.34(9)(b) inserted by Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999/1820 [Sch.2\(I\) para.102\(2\)](#) (July 1, 1999 the principal appointed day for 1998 c.46)
- 33 Added by Pollution Prevention and Control (England and Wales) Regulations 2000/1973 [Sch.10\(1\) para.4\(a\)](#) (August 1, 2000)
- 34 Words substituted by Waste (England and Wales) Regulations 2011/988 [Sch.4\(1\) para.3\(3\)](#) (March 29, 2011)

Notes

- 35 Substituted by Environmental Permitting (England and Wales) Regulations 2007/3538 [Sch.21\(1\) para.8\(2\)](#) (April 6, 2008)
- 36 Words substituted by Environmental Permitting (England and Wales) Regulations 2010/675 [Sch.26\(1\) para.5\(4\)\(b\)](#) (April 6, 2010 immediately after the coming into force of SI 2009/3381)
- 37 Words substituted by Environmental Permitting (England and Wales) Regulations 2007/3538 [Sch.21\(1\) para.8\(3\)](#) (April 6, 2008)
- 38 Added by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 [Sch.2 para.1\(6\)\(a\)](#) (July 7, 2009)
- 39 Added by Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005/2900 [reg.2\(2\)](#) (November 21, 2005)
- 40 Words inserted by Waste (Household Waste Duty of Care) (Wales) Regulations 2006/123 [reg.2\(1\)](#) (January 26, 2006)
- 41 Words substituted by Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005/2900 [reg.2\(3\)](#) (November 21, 2005)
- 42 Substituted by Environmental Permitting (England and Wales) Regulations 2007/3538 [Sch.21\(1\) para.8\(4\)](#) (April 6, 2008)
- 43 Added by Environmental Permitting (England and Wales) Regulations 2007/3538 [Sch.21\(1\) para.8\(5\)](#) (April 6, 2008)
- 44 Words inserted by Waste (England and Wales) Regulations 2011/988 [Sch.4\(1\) para.3\(4\)](#) (March 29, 2011)
- 45 Words substituted by Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005/2900 [reg.2\(4\)](#) (November 21, 2005)
- 46 Words substituted by Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005/2900 [reg.2\(5\)](#) (November 21, 2005)
- 47 Word inserted by Environmental Permitting (England and Wales) (Amendment) Regulations 2009/1799 [Sch.2 para.1\(6\)\(b\)](#) (July 7, 2009)
- 48 Words inserted by Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005/2900 [reg.2\(6\)](#) (November 21, 2005)

Part II WASTE ON LAND > Duty of care etc. as respects waste > s. 34 Duty of care etc. as respects waste.
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s. 75A Modification of the Waste Framework Directive

Law In Force

Version 3 of 3

1 January 2024 - Present

Subjects

Environment

Keywords

Amendments; EU law; Interpretation; Waste management

[

75A.— Modification of the Waste Framework Directive

- (1) For the purposes of this Part, the Waste Framework Directive is to be read in accordance with this section.
- (2) A reference to one or more member States in a provision of the Waste Framework Directive imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, waste regulation authority or local authority which, immediately before [IP completion day]², was responsible for the United Kingdom’s compliance with that obligation or able to exercise that discretion in respect of England, Wales or Scotland.
- (3) Article 2 is to be read as if—
 - (a) in paragraph 2—
 - (i) in the words before point (a), for “other Community legislation” there were substituted “ [assimilated]³ law” ;
 - (ii) in points (b) and (c), for “Regulation (EC) No 1774/2002” there were substituted “Regulation (EC) No 1069/2009”;
 - (iii) in point (d), as it extends to England and Wales, for the words from “Directive 2006/21/EC⁴” to the end there were substituted “the Mining Waste Directive”;
 - (iv) for point (d), as it extends to Scotland, there were substituted—
 - (d) extractive waste, which has the same meaning as in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010 (S.S.I. 2010/60)”;

(b) in paragraph 3, the words from “Without prejudice” to “Community legislation,” were omitted;

(c) paragraph 4 were omitted.

[

(4) Article 5 is to be read as if—

(a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;

(b) after paragraph 1 there were inserted—

”1A.—

Any decision as to whether a substance or object is a by-product must be made—

(a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and

(b) having regard to any guidance published by the appropriate authority or the waste regulation authority for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(5) Article 6 is to be read as if—

(a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;

(b) after paragraph 1 there were inserted—

”1A.—

Any decision as to whether a substance or object has ceased to be waste must be made—

(a) in accordance with any regulations or [assimilated direct]⁶ legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and

(b) having regard to any guidance published by the appropriate authority or the waste regulation authority for the purposes of this Article.”;

(c) in paragraph 2—

(i) the first subparagraph were omitted;

(ii) in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;

(iii) the third and fourth subparagraphs were omitted;

(d) paragraph 3 were omitted;

(e) in paragraph 4—

(i) in the first subparagraph—

(aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set out as referred to in paragraph 1A(a), the waste regulation authority”;

(bb) the second sentence were omitted;

(ii) in the second subparagraph—

(aa) for “Member States” there were substituted “The waste regulation authority”;

(bb) “by competent authorities” were omitted.

(6) Article 7 is to be read as if—

(a) before paragraph 1 there were inserted—

”A1.

In this Article, the “*list of waste*” means the list contained in the Annex to Commission Decision 2000/532/EC, as that list has effect in England, Wales or Scotland (as the case may be).”;

(b) in paragraph 1—

(i) the first and second sentences were omitted;

(ii) for the third sentence there were substituted “The list of waste shall, except as provided in Commission Decision 2000/532/EC, be binding as regards determination of the waste which is to be considered as hazardous waste or as non-hazardous waste.”;

(c) paragraphs 2, 3, 6 and 7 were omitted.

] ⁵

(7) Annex 3 is to be read as if, in entry HP 9, in the second sentence, “in the Member States” were omitted.

(8) In [this section] ²—

“*appropriate authority*” means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

(c) in relation to Scotland, the Scottish Ministers;

“*local authority*” means—

(a) in England outside Greater London—

(i) a district council,

(ii) a county council, or

(iii) the Council of the Isles of Scilly;

(b) in Greater London—

(i) the council of a London borough,

(ii) the Common Council of the City of London,

(iii) the Sub-Treasurer of the Inner Temple, or

- (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
 - (i) a county council, or
 - (ii) a county borough council;
- (d) in Scotland, a council constituted under [section 2](#) of the [Local Government etc. \(Scotland\) Act 1994](#).

]

Notes

- 1** Added by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 [Pt 3 reg.5\(4\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1)
- 2** Words substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 [Pt 3 reg.5](#) (December 31, 2020: commenced by an amendment)
- 3** Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023/1424 [Sch.1 para.29\(4\)\(a\)](#) (January 1, 2024)
- 4** OJ No L 102, 11.4.2006, p 15, as last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p 14).
- 5** Substituted by Waste (Miscellaneous Amendments) (EU Exit) Regulations 2019/620 [Pt 3 reg.5](#) (December 31, 2020: commenced by an amendment)
- 6** Words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023/1424 [Sch.1 para.29\(4\)\(b\)](#) (January 1, 2024)

Part II WASTE ON LAND > Supplemental > s. 75A Modification of the Waste Framework Directive
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s. 118 Offences.

Partially In Force With Amendments Pending

Version 3 of 4

12 March 2015 - Present

Subjects

Criminal law; Environment

Keywords

Genetically modified organisms; Notification; Offences; Risk assessment

England and Wales

[

118.— Offences.

(1) It is an offence for a person—

- (a) to do anything in contravention of [section 108\(1\)](#) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
- (b) to fail to comply with [section 108\(3\)](#) above when keeping something which is, and which he knows or has reason to believe is, a genetically modified organism;
- (c) to do anything in contravention of [section 111\(1\)](#) or (2) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
- (d) to fail to comply with any requirement of [subsection \(2\)](#), (3)(a), (b) or (c) or (4) of [section 109](#) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
- (e) to fail, without reasonable excuse, to comply with [section 108\(5\)](#) or (6) or [section 111\(6A\)](#) above;
- (f) to contravene any prohibition imposed on him by a prohibition notice;
- (g) without reasonable excuse, to fail to comply with any requirement imposed under [section 115](#) above;
- (h) to prevent any other person from appearing before or from answering any question to which an inspector may, by virtue of [section 115\(3\)](#) above, require an answer;

- (i) intentionally to obstruct an inspector in the exercise or performance of his powers or duties, other than his powers or duties under [section 117](#) above;
- (j) intentionally to obstruct an inspector in the exercise of his powers or duties under [section 117](#) above;
- (k) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under [section 116](#) above;
- (l) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
 - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or
 - (ii) for the purpose of obtaining the grant of a consent to himself or any other person or the variation of a consent;
- (m) intentionally to make a false entry in any record required to be kept under [section 108](#) or [111](#) above;
- (n) with intent to deceive, to forge or use a document purporting to be issued under [section 111](#) above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;
- (o) falsely to pretend to be an inspector.

(2) It shall be a defence for a person charged with an offence under paragraph (a), (b), (c), (d) or (f) of subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) A person guilty of an offence under paragraph (c) or (d) of subsection (1) above shall be liable—

- (a) on summary conviction, to a fine or to imprisonment for a term not exceeding six months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(4) A person guilty of an offence under paragraph (f) of subsection (1) above shall be liable—

- (a) on summary conviction, to [a fine]³ or to imprisonment for a term not exceeding six months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(5) A person guilty of an offence under paragraph (a) or (b) of subsection (1) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not

exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.

(6) A person guilty of an offence under paragraph (e), (j), (k), (l), (m) or (n) of subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(7) A person guilty of an offence under paragraph (g), (h) or (i) of subsection (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both.

(8) A person guilty of an offence under paragraph (o) of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) Where a person is convicted of an offence under paragraph (b) of subsection (1) above in respect of his keeping any genetically modified organism, then, if the contravention in respect of which he was convicted is continued after he was convicted he shall be guilty of a further offence and liable on summary conviction to a fine of [one-fifth of the greater of £5,000 or level 4 on the standard scale]⁴ for each day on which the contravention is so continued.

(10) Proceedings in respect of an offence under this section shall not be instituted in England and Wales except by the Secretary of State or with the consent of the Director of Public Prosecutions or in Northern Ireland except with the consent of the Director of Public Prosecutions for Northern Ireland.

]²

Scotland

118.— Offences.

(1) It is an offence for a person—

(a) to do anything in contravention of [section 108\(1\)](#) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

(b) to fail to comply with [section 108\(3\)](#) above when keeping something which is, and which he knows or has reason to believe is, a genetically modified organism;

(c) to do anything in contravention of [section 111\(1\)](#) or (2) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;

- (d) to fail to comply with any requirement of [subsection \(2\)](#), [\(3\)\(a\)](#), [\(b\)](#) or [\(c\)](#) or [\(4\) of section 109](#) above in relation to something which is, and which he knows or has reason to believe is, a genetically modified organism;
- (e) to fail, without reasonable excuse, to comply with [section 108\(5\)](#) or [\(6\)](#)[or [section 111\(6A\)](#)]¹ above;
- (f) to contravene any prohibition imposed on him by a prohibition notice;
- (g) without reasonable excuse, to fail to comply with any requirement imposed under [section 115](#) above;
- (h) to prevent any other person from appearing before or from answering any question to which an inspector may, by virtue of [section 115\(3\)](#) above, require an answer;
- (i) intentionally to obstruct an inspector in the exercise or performance of his powers or duties, other than his powers or duties under [section 117](#) above;
- (j) intentionally to obstruct an inspector in the exercise of his powers or duties under [section 117](#) above;
- (k) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under [section 116](#) above;
- (l) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
 - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or
 - (ii) for the purpose of obtaining the grant of a consent to himself or any other person or the variation of a consent;
- (m) intentionally to make a false entry in any record required to be kept under [section 108](#) or [111](#) above;
- (n) with intent to deceive, to forge or use a document purporting to be issued under [section 111](#) above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;
- (o) falsely to pretend to be an inspector.

(2) It shall be a defence for a person charged with an offence under paragraph (a), (b), (c), (d) or (f) of subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) A person guilty of an offence under paragraph (c) or (d) of subsection (1) above shall be liable—

- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or to both;

- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.
- (4) A person guilty of an offence under paragraph (f) of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- (5) A person guilty of an offence under paragraph (a) or (b) of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years, or to both.
- (6) A person guilty of an offence under paragraph (e), (j), (k), (l), (m) or (n) of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months, or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- (7) A person guilty of an offence under paragraph (g), (h) or (i) of subsection (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or to both.
- (8) A person guilty of an offence under paragraph (o) of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) Where a person is convicted of an offence under paragraph (b) of subsection (1) above in respect of his keeping any genetically modified organism, then, if the contravention in respect of which he was convicted is continued after he was convicted he shall be guilty of a further offence and liable on summary conviction to a fine of one-fifth of level 5 on the standard scale for each day on which the contravention is so continued.
- (10) Proceedings in respect of an offence under this section shall not be instituted in England and Wales except by the Secretary of State or with the consent of the Director of Public Prosecutions or in Northern Ireland except with the consent of the Director of Public Prosecutions for Northern Ireland.

Notes

- 1 Words added by Genetically Modified Organisms (Deliberate Release) Regulations 1992/3280 [Pt IV reg.13\(2\)](#) (February 1, 1993)
 - 2 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 [Sch.4\(1\) para.22\(6\)\(a\)](#) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))
 - 3 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 [Sch.4\(1\) para.22\(6\)\(b\)](#) (March 12, 2015: substitution has effect subject to transitional provisions and savings specified in SI 2015/664 reg.5(1))
 - 4 Words substituted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015/664 [Sch.3\(1\) para.6\(6\)](#) (March 12, 2015: substitution has effect subject to transitional provisions and savings as specified in SI 2015/664 reg.5(1))
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Part VI GENETICALLY MODIFIED ORGANISMS > Enforcement powers and offences > s. 118 Offences.

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s. 157 Offences by bodies corporate.

Law In Force

Version 1 of 1

1 January 1991 - Present

Subjects

Criminal law; Environment

Keywords

Corporate criminal liability; Environmental protection

157.— Offences by bodies corporate.

(1) Where an offence under any provision of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Part IX GENERAL > s. 157 Offences by bodies corporate.

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