



# Health and Safety at Work etc. Act 1974

## 1974 CHAPTER 37

### PART I

#### HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

##### Extent Information

- E1** For the application of Pt. I to Northern Ireland see s. 84(1).

##### Modifications etc. (not altering text)

- C1** Pt. 1 (ss. 1–54) extended by [S.I. 1981/1011, reg. 9, 1983/1919, reg. 3](#)  
Pt. 1 (ss. 1–54) modified (E.W.S.) (1.2.1996) by [1995 c. 25, s. 5\(5\)\(b\)](#) (with ss. 115, 117); [S.I. 1996/186, art. 2](#)  
Pt. 1 (ss. 1–54) modified (E.W.S.) (1.4.1996) by [1995 c. 25, s. 33\(5\)\(c\)](#) (with s. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)  
Pt. 1 (ss. 1–54) amended (E.W.S.) (1.4.1996) by [1995 c. 25, s. 120\(1\), Sch. 22 para. 30\(2\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)  
Pt. 1 (ss. 1–54) amended (E.W.S.) (1.3.1996) by [1995 c. 45, s. 16\(1\), Sch. 4 para. 10\(1\)\(a\)\(3\)](#); [S.I. 1996/218, art. 2](#)
- C2** Pt. 1 (ss. 1–54) extended by [Gas Act 1986 \(c. 44, SIF 44:2\), ss. 18, 48\(3\)\(4\)](#)
- C3** Pt. 1 (ss. 1–54) applied by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(3\), Sch. 8 para. 6\(2\)](#)
- C4** Pt. 1 (ss. 1–54) amended by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\), s. 36](#)
- C5** Pt. 1 (ss. 1–54) amended by [S.I. 1988/1222, regs. 3, 4](#)
- C6** Pt. 1 (ss. 1–54) extended by [S.I. 1989/1671, reg. 4](#)
- C7** Pt. 1 (ss. 1–54) amended by [S.I. 1989/1810, reg. 3](#) (which S.I. was revoked (1.2.1993) by [S.I. 1992/3217, reg. 25](#)).
- C8** Pt. 1 (ss. 1–54) amended by [S.I. 1990/1380, reg. 3](#)  
Pt. 1 (ss. 1–54) saved by [Highland Regional Council \(Harbours\) Order Confirmation Act \(c. xii\), s. 1, Sch. s. 61\(1\)\(f\)](#)  
Pt. 1 (ss. 1–54) definition applied (E.W.) (1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\), ss. 206\(3\)\(g\), 223\(2\)](#)  
Pt. 1 (ss. 1–54) saved by [London Underground \(Safety Measures\) Act 1991 \(c. xviii\), s. 11\(2\)](#)

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- Pt. 1 (ss. 1-54) saved by [City of Edinburgh District Council Order Confirmation Act 1991 \(c. xix\), s. 1, Sch. 1 Pt. XII para. 67\(2\)](#)
- C9** Pt. 1 extended by [S.I. 1978/752, reg. 3](#)
- Pt. 1 (ss. 1-54): transfer of functions (E.W.) (1.4.1996) by [1995 c. 25, s. 2\(1\)\(g\)\(2\)\(c\)](#) (with [ss. 115, 117](#)); [S.I. 1996/186, art. 3](#)
- Pt. 1 (ss. 1-54): transfer of functions (S.) (12.10.1995) by [1995 c. 25, s. 21\(1\)\(g\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1995/2649, art. 2](#)
- Pt. 1 (ss. 1-54): transfer of functions (E.W.S.) (12.10.1995) by [1995 c. 25, s. 21\(2\)\(a\)](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1995/2649, art. 2](#)
- C10** Pt. 1 (ss. 1-54) extended (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\), S. 1\(1\)](#)
- C11** Pt. 1 (ss. 1-54) amended (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\), s. 1\(1\)](#)
- Pt. 1 (ss. 1-54) amended (E.W.S.) (2.2.1994) by [1993 c. 43, s. 117\(1\)\(6\), 150\(1\)\(e\)](#); [S.I. 1994/202, art. 2](#)
- C12** Pt. 1 (ss. 1-54) extended (E.W.S.) (1.2.1993) by [S.I. 1992/3217, reg. 4](#)
- C13** Pt. 1 (ss. 1-54) modified (E.W.S.) (1.1.1993) by [S.I. 1992/2051, reg. 16\(2\)](#)
- C14** Pt. 1 (ss. 1-54) extended (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\), s. 2\(1\)](#)
- Pt. 1 (ss. 1-54) extended (E.W.S.) (2.2.1994) by [1993 c. 43, ss. 117\(2\)\(6\), 150\(1\)\(e\)](#); [S.I. 1994/202, art. 2](#)
- C15** Pt. 1 (ss. 1-54) applied (with modifications) (14.4.1999) by [S.I. 1999/860, reg. 2](#)
- C16** Pt. 1 (ss. 1-54) applied (1.7.1999) by [S.I. 1999/1517, reg. 12\(3\), Sch. 4 para. 12\(3\)\(c\)](#)
- Pt. 1: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\), Sch. 1 Table C](#)
- C17** Pt. 1 restricted (S.) (1.10.2006) by [2005 asp 5, ss. 70, 90](#); [S.I. 2006/458, art. 2](#) (subject to [art. 3](#))
- C18** Pt. 1 modified (prosp.) by [Energy Act 2008 \(c. 32\), ss. 99\(1\), 110](#)
- C19** Pt. 1: power to repeal or modify conferred (prosp.) by [Energy Act 2008 \(c. 32\), ss. 99\(1\)\(2\), 110](#)

## *Preliminary*

### **1 Preliminary.**

- (1) The provisions of this Part shall have effect with a view to—
- (a) securing the health, safety and welfare of persons at work;
  - (b) protecting persons other than persons at work against risks to health or safety arising out of or in connection with the activities of persons at work;
  - (c) controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing the unlawful acquisition, possession and use of such substances; <sup>[F1]</sup>and]
  - <sup>[F1]</sup>(d) controlling the emission into the atmosphere of noxious or offensive substances from premises of any class prescribed for the purposes of this paragraph.]
- (2) The provisions of this Part relating to the making of health and safety regulations <sup>F2</sup>. . . and the preparation and approval of codes of practice shall in particular have effect with a view to enabling the enactments specified in the third column of Schedule 1 and the regulations, orders and other instruments in force under those enactments to be progressively replaced by a system of regulations and approved codes of practice operating in combination with the other provisions of this Part and designed to maintain or improve the standards of health, safety and welfare established by or under those enactments.
- (3) For the purposes of this Part risks arising out of or in connection with the activities of persons at work shall be treated as including risks attributable to the manner

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of conducting an undertaking, the plant or substances used for the purposes of an undertaking and the condition of premises so used or any part of them.

- (4) References in this Part to the general purposes of this Part are references to the purposes mentioned in subsection (1) above.

#### Textual Amendments

- F1** Ss. 1(1)(d) and preceding word repealed (16.12.1996 for E.W and otherwise prosp.) by 1990 c. 43, s. 162(2), 164(3), **Sch. 16 Pt. I**; S.I. 1996/3056, **art. 2**
- F2** Words repealed by **Employment Protection Act 1975 (c. 71), Sch. 18**

#### Modifications etc. (not altering text)

- C20** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**
- C21** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C22** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C23** S. 1(1)(c) extended (E.W.S.) (8.8.1996) by S.I. 1996/2075, **reg. 2(1)** (which amending provision was revoked (11.3.2002) by S.I. 2002/282, **art. 4**)  
S. 1(1)(c) modified (E.W.S.) (11.3.2002) by S.I. 2002/282, **art. 3**
- C24** S. 1(2) modified by **Gas Act 1986 (c. 44, SIF 44:2)**, s. 67(3), **Sch. 8 Pt. I para. 6(3)**
- C25** S. 1(3) applied by **Companies Act 1985 (c. 6, SIF 27)**, s. 235(5), **Sch. 7 Pt. IV para. 10(4)**

### General duties

## 2 General duties of employers to their employees.

- (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.
- (2) Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular—
- the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
  - arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  - the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;
  - so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
  - the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

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- (3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees.
- (4) Regulations made by the Secretary of State may provide for the appointment in prescribed cases by recognised trade unions (within the meaning of the regulations) of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under subsection (6) below and shall have such other functions as may be prescribed.
- <sup>F3</sup>(5) . . . . .
- (6) It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.
- (7) In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in [<sup>F4</sup>subsection (4)] above, to establish, in accordance with regulations made by the Secretary of State, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

#### Textual Amendments

- F3** Ss. 2(5), 29, 31, 32, 50(4)(5), 53(2)–(6) repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)
- F4** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 2](#)

#### Modifications etc. (not altering text)

- C26** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
- C27** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C28** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C29** S. 2(1)(2)(3) modified (15.11.2000) by [S.I. 2000/2831](#), [reg. 5\(1\)](#)
- C30** S. 2(3) modified (1.10.1993) by [S.I. 1993/1897](#), [art. 4\(4\)](#).
- C31** S. 2(4) modified by [S.I. 1977/500](#), [reg. 8\(1\)](#)

### 3 General duties of employers and self-employed to persons other than their employees.

- (1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.
- (2) It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

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- (3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.

#### **Modifications etc. (not altering text)**

- C32** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
- C33** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C34** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at [Work etc. Act 1974](#) ([Application outside Great Britain](#)) [Order 2001](#) ([S.I. 2001/2127](#)), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C35** S. 3(2) modified by [S.I. 1978/752](#), [reg. 4](#)  
S. 3(2) modified (16.1.1995) by [S.I. 1994/3246](#), [reg. 20](#)
- C36** S. 3(2) modified by [S.I. 1981/1011](#), [reg. 10](#)
- C37** S. 3(2) modified by [S.I. 1989/1810](#), [reg. 4](#) (which S.I. was revoked (1.2.1993) by [S.I. 1992/3217](#), [reg. 25](#)).
- C38** S. 3(2) modified (E.W.S.) (1.2.1993) by [S.I. 1992/3217](#), [reg. 5](#)  
S. 3(2) modified (25.3.1999) by [S.I. 1999/437](#), [reg. 20](#)  
S. 3(2) modified (15.11.2000) by [S.I. 2000/2831](#), [reg. 5\(2\)](#)  
S. 3(2) modified (21.11.2002) by [S.I. 2002/2677](#), [reg. 20](#)

#### **4 General duties of persons concerned with premises to persons other than their employees.**

- (1) This section has effect for imposing on persons duties in relation to those who—
- are not their employees; but
  - use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there, and applies to premises so made available and other non-domestic premises used in connection with them.
- (2) It shall be the duty of each person who has, to any extent, control of premises to which this section applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.
- (3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—
- the maintenance or repair of any premises to which this section applies or any means of access thereto or egress therefrom; or
  - the safety of or the absence of risks to health arising from plant or substances in any such premises;
- that person shall be treated, for the purposes of subsection (2) above, as being a person who has control of the matters to which his obligation extends.

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- (4) Any reference in this section to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

**Modifications etc. (not altering text)**

- C39** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, arts. 2–10
- C40** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by S.I. 2009/1750, art. 2(2)(4))
- C41** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, art. 2(3))

**[<sup>F5</sup>5] General duty of persons in control of certain premises in relation to harmful emissions into atmosphere.**

- (1) [<sup>F6</sup>Subject to subsection (5) below,] It shall be the duty of the person having control of any premises of a class prescribed for the purposes of section 1(1)(d) to use the best practicable means for preventing the emission into the atmosphere from the premises of noxious or offensive substances and for rendering harmless and inoffensive such substances as may be so emitted.
- (2) The reference in subsection (1) above to the means to be used for the purposes there mentioned includes a reference to the manner in which the plant provided for those purposes is used and to the supervision of any operation involving the emission of the substances to which that subsection applies.
- (3) Any substance or a substance of any description prescribed for the purposes of subsection (1) above as noxious or offensive shall be a noxious or, as the case may be, an offensive substance for those purposes whether or not it would be so apart from this subsection.
- (4) Any reference in this section to a person having control of any premises is a reference to a person having control of the premises in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not) and any duty imposed on any such person by this section shall extend only to matters within his control.
- [<sup>F7</sup>(5) The foregoing provisions of this section shall not apply in relation to any process which is a prescribed process as from the date which is the determination date for that process.
- (6) For the purposes of subsection (5) above, the “determination date” for a prescribed process is—
- (a) in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it;
  - (b) in the case of a process for which an authorisation is refused, the date of the refusal or, on an appeal, of the affirmation of the refusal.
- (7) In subsections (5) and (6) above “authorisation”, “enforcing authority” and “prescribed process” have the meaning given in section 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act.]

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### Textual Amendments

- F5** S. 5 repealed (16.12.1996 for E.W. and otherwise prosp.) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), ss. 162\(2\), 164\(3\), Sch. 16 Pt. I](#); S.I. 1996/3056, [art. 2](#)
- F6** Words in s. 5 inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 162\(1\), Sch. 15 para. 14\(a\)](#); S.I. 1991/1042, [art.2](#)
- F7** S. 5(5)–(7) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 162\(1\), Sch. 15 para. 14\(b\)](#); S.I. 1991/1042, [art.2](#)

### Modifications etc. (not altering text)

- C42** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840, arts. 2–10](#)
- C43** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10 \(with art. 11\) \(as amended by S.I. 2009/1750, art. 2\(2\)\(4\)\)](#)
- C44** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\), arts. 8A, 8B \(as inserted by S.I. 2009/1750, art. 2\(3\)\)](#)

## 6 General duties of manufacturers etc. as regards articles and substances for use at work.

[<sup>F8</sup>(1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment—

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when it is being dismantled or disposed of; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(1A) It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment—

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use

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- for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.]
- (2) It shall be the duty of any person who undertakes the design or manufacture of any article for use at work [<sup>F9</sup>or of any article of fairground equipment] to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.
- (3) It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work [<sup>F10</sup>or who erects or installs any article of fairground equipment] to ensure, so far as is reasonably practicable, that nothing about the way in which [<sup>F11</sup>the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above.]
- [<sup>F12</sup>(4) It shall be the duty of any person who manufactures, imports or supplies any substance—
- (a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which section 4 above applies;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph
- (c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when the substance is being disposed of; and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.]
- (5) It shall be the duty of any person who undertakes the manufacture of any [<sup>F13</sup>substance] to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonable practicable, the elimination or minimisation of any risks to health or safety to which the substance may give rise [<sup>F13</sup>at all such times as are mentioned in paragraph (a) of subsection (4) above].
- (6) Nothing in the preceding provisions of this section shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise



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than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of those provisions.

- (7) Any duty imposed on any person by any of the preceding provisions of this section shall extend only to things done in the course of a trade, business or other undertaking carried on by him (whether for profit or not) and to matters within his control.
- (8) Where a person designs, manufactures, imports or supplies an article [<sup>F14</sup>for use at work or an article of fairground equipment and does so for or to another] on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health [<sup>F15</sup>at all such times as are mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above], the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed [<sup>F16</sup>by virtue of that paragraph] to such extent as is reasonable having regard to the terms of the undertaking.
- [<sup>F17</sup>(8A) Nothing in subsection (7) or (8) above shall relieve any person who imports any article or substance from any duty in respect of anything which—
- (a) in the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or
  - (b) in the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.]
- (9) Where a person (“the ostensible supplier”) supplies any [<sup>F18</sup>article or substance] to another (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier—
- (a) carries on the business of financing the acquisition of goods by others by means of such agreements; and
  - (b) in the course of that business acquired his interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person (“the effective supplier”),
- the effective supplier and not the ostensible supplier shall be treated for the purposes of this section as supplying the article or substance to the customer, and any duty imposed by the preceding provisions of this section on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.
- [<sup>F19</sup>(10) For the purposes of this section an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of paragraph (a) of subsection (1), (1A) or (4) above has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.]

#### Textual Amendments

- F8** S. 6(1)(1A) substituted for s. 6(1) by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, [Sch. 3 para. 1\(2\)](#)

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- F9** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(4)**
- F10** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(4)(a)**
- F11** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(4)(b)**
- F12** S. 6(4) substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(5)**
- F13** Word substituted and words beginning “at all such times...” inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(6)(a)(b)**
- F14** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(7)(a)**
- F15** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(7)(b)**
- F16** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(7)(c)**
- F17** S. 6(8A) inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(8)**
- F18** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(9)**
- F19** S. 6(10) substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 1(10)**

#### **Modifications etc. (not altering text)**

- C45** S. 6 modified by [S.I. 1980/907](#), **reg. 3**
- C46** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**
- C47** S. 6 modified by [S.I. 1989/1790](#), **reg. 12**
- C48** S. 6 modified (3.8.1992) by [S.I. 1992/1524](#), **reg. 3**
- C49** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by [S.I. 2009/1750](#), **art. 2(2)(4)**)
- C50** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), **arts. 8A, 8B** (as inserted by [S.I. 2009/1750](#), **art. 2(3)**)
- C51** S. 6(1) modified *ibid.*, **reg. 4**
- C52** S. 6(1)(1A) modified (3.8.1992) by [S.I. 1992/1524](#), **reg. 4**
- C53** S. 6(1) modified (1.1.2000) by [S.I. 1999/3232](#), **reg. 31(1)**
- C54** S. 6(9) applied by [S.I. 1989/2169](#), **reg. 3(4), Sch. 3 para. 3**  
S. 6(9) applied (21.2.2000) by [S.I. 2000/128](#), **reg. 3, Sch. 2**

## **7 General duties of employees at work.**

It shall be the duty of every employee while at work—

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and
- (b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

#### **Modifications etc. (not altering text)**

- C55** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**
- C56** S. 7 modified (15.11.2000) by [S.I. 2000/2831](#), **reg. 5(1)**  
Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by [S.I. 2009/1750](#), **art. 2(2)(4)**)
- C57** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), **arts. 8A, 8B** (as inserted by [S.I. 2009/1750](#), **art. 2(3)**)

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## 8 Duty not to interfere with or misuse things provided pursuant to certain provisions.

No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

### Modifications etc. (not altering text)

**C58** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, arts. 2–10

**C59** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by S.I. 2009/1750, art. 2(2)(4))

**C60** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, art. 2(3))

## 9 Duty not to charge employees for things done or provided pursuant to certain specific requirements.

No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

### Modifications etc. (not altering text)

**C61** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, arts. 2–10

**C62** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by S.I. 2009/1750, art. 2(2)(4))

**C63** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, art. 2(3))

*The Health and Safety Commission and the Health and Safety Executive*

## 10 Establishment of the Commission and the Executive.

- (1) There shall be two bodies corporate to be called the Health and Safety Commission and the Health and Safety Executive which shall be constituted in accordance with the following provisions of this section.
- (2) The Health and Safety Commission (hereafter in this Act referred to as “the Commission”) shall consist of a chairman appointed by the Secretary of State and not less than six nor more than nine other members appointed by the Secretary of State in accordance with subsection (3) below.
- (3) Before appointing the members of the Commission (other than the chairman) the Secretary of State shall—
  - (a) as to three of them, consult such organisations representing employers as he considers appropriate;
  - (b) as to three others, consult such organisations representing employees as he considers appropriate; and

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- (c) as to any other members he may appoint, consult such organisations representing local authorities and such other organisations, including professional bodies, the activities of whose members are concerned with matters relating to any of the general purposes of this Part, as he considers appropriate.
- (4) The Secretary of State may appoint one of the members to be deputy chairman of the Commission.
- (5) The Health and Safety Executive (hereafter in this Act referred to as “the Executive”) shall consist of three persons of whom one shall be appointed by the Commission with the approval of the Secretary of State to be the director of the Executive and the others shall be appointed by the Commission with the like approval after consultation with the said director.
- (6) The provisions of Schedule 2 shall have effect with respect to the Commission and the Executive.
- (7) The functions of the Commission and of the Executive, and of their officers and servants, shall be performed on behalf of the Crown.
- [<sup>F20</sup>(8) For the purposes of any civil proceedings arising out of those functions, the <sup>M1</sup>Crown Proceedings Act 1947 and the <sup>M2</sup>Crown Suits (Scotland) Act 1857 shall apply to the Commission and the Executive as if they were government departments within the meaning of the said Act of 1947 or, as the case may be, public departments within the meaning of the said Act of 1857.]

#### Textual Amendments

**F20** S. 10(8) inserted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 3](#)

#### Modifications etc. (not altering text)

**C64** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)

**C65** Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), [5\(1\)\(2\)](#), [6\(1\)](#), [7\(1\)](#), [8\(1\)](#), [10](#) (with [art. 11](#))

#### Marginal Citations

**M1** 1947 c. 44.

**M2** 1857 c. 44.

## 11 General functions of the Commission and the Executive.

- (1) In addition to the other functions conferred on the Commission by virtue of this Act, but subject to subsection (3) below, it shall be the general duty of the Commission to do such things and make such arrangements as it considers appropriate for the general purposes of this Part . . . <sup>F21</sup>.
- (2) It shall be the duty of the Commission, . . . <sup>F21</sup>
- (a) to assist and encourage persons concerned with matters relevant to any of the general purposes of this Part to further those purposes;
  - (b) to make such arrangements as it considers appropriate for the carrying out of research, the publication of the results of research and the provision of training

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- and information in connection with those purposes, and to encourage research and the provision of training and information in that connection by others;
- (c) to make such arrangements as it considers appropriate for securing that government departments, employers, employees, organisations representing employers and employees respectively, and other persons concerned with matters relevant to any of those purposes are provided with an information and advisory service and are kept informed of, and adequately advised on, such matters;
- (d) to submit from time to time to the authority having power to make regulations under any of the relevant statutory provisions such proposals as the Commission considers appropriate for the making of regulations under that power.
- (3) It shall be the duty of the Commission—
- (a) to submit to the Secretary of State from time to time particulars of what it proposes to do for the purpose of performing its functions; and
- (b) subject to the following paragraph, to ensure that its activities are in accordance with proposals approved by the Secretary of State; and
- (c) to give effect to any directions given to it by the Secretary of State.
- (4) In addition to any other functions conferred on the Executive by virtue of this Part, it shall be the duty of the Executive—
- (a) to exercise on behalf of the Commission such of the Commission’s functions as the Commission directs it to exercise; and
- (b) to give effect to any directions given to it by the Commission otherwise than in pursuance of paragraph (a) above;
- but, except for the purpose of giving effect to directions given to the Commission by the Secretary of State, the Commission shall not give to the Executive any directions as to the enforcement of any of the relevant statutory provisions in a particular case.
- (5) Without prejudice to subsection (2) above, it shall be the duty of the Executive, if so requested by a Minister of the Crown—
- (a) to provide him with information about the activities of the Executive in connection with any matter with which he is concerned; and
- (b) to provide him with advice on any matter with which he is concerned on which relevant expert advice is obtainable from any of the officers or servants of the Executive but which is not relevant to any of the general purposes of this Part.
- (6) The Commission and the Executive shall, subject to any directions given to it in pursuance of this Part, have power to do anything (except borrow money) which is calculated to facilitate, or is conducive or incidental to, the performance of any function of the Commission or, as the case may be, the Executive (including a function conferred on it by virtue of this subsection).

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#### **Textual Amendments**

**F21** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

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#### **Modifications etc. (not altering text)**

**C66** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**

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**C67** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11)

## 12 Control of the Commission by the Secretary of State.

The Secretary of State may—

- (a) approve, with or without modifications, any proposals submitted to him in pursuance of section 11(3)(a);
- (b) give to the Commission at any time such directions as he thinks fit with respect to its functions (including directions modifying its functions, but not directions conferring on it functions other than any of which it was deprived by previous directions given by virtue of this paragraph), and any directions which it appears to him requisite or expedient to give in the interests of the safety of the State.

### Modifications etc. (not altering text)

**C68** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, arts. 2–10

**C69** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11)

S. 12 applied (with modifications) (E.w.S.) (24.7.2002) by S.I. 2002/1689, reg. 14(6)

## 13 Other powers of the Commission.

(1) The Commission shall have power—

- (a) to make agreements with any government department or other person for that department or person to perform on behalf of the Commission or the Executive (with or without payment) any of the functions of the Commission or, as the case may be, of the Executive;
- (b) subject to subsection (2) below, to make agreements with any Minister of the Crown, government department or other public authority for the Commission to perform on behalf of that Minister, department or authority (with or without payment) functions exercisable by the Minister, department or authority (including, in the case of a Minister, functions not conferred by an enactment), being functions which in the opinion of the Secretary of State can appropriately be performed by the Commission in connection with any of the Commission's functions;
- (c) to provide (with or without payment) services or facilities required otherwise than for the general purposes of this Part in so far as they are required by any government department or other public authority in connection with the exercise by that department or authority of any of its functions;
- (d) to appoint persons or committees of persons to provide the Commission with advice in connection with any of its functions and (without prejudice to the generality of the following paragraph) to pay to persons so appointed such remuneration as the Secretary of State may with the approval of the Minister for the Civil Service determine;
- (e) in connection with any of the functions of the Commission, to pay to any person such travelling and subsistence allowances and such compensation for loss of remunerative time as the Secretary of State may with the approval of the Minister for the Civil Service determine;

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- (f) to carry out or arrange for or make payments in respect of research into any matter connected with any of the Commission’s functions, and to disseminate or arrange for or make payments in respect of the dissemination of information derived from such research;
  - (g) to include, in any arrangements made by the Commission for the provision of facilities or services by it or on its behalf, provision for the making of payments to the Commission or any person acting on its behalf by other parties to the arrangements and by persons who use those facilities or services.
- (2) Nothing in subsection (1)(b) shall authorise the Commission to perform any function of a Minister, department or authority which consists of a power to make regulations or other instruments of a legislative character.

**Modifications etc. (not altering text)**

**C70** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, arts. 2–10

**C71** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11)

**C72** S. 13(2) restricted (E.W.S.) (8.11.2006) by 2006 c. 49, s. 51(2) (with s. 61(9)(a))

**14 Power of the Commission to direct investigations and inquiries.**

- (1) This section applies to the following matters, that is to say any accident, occurrence, situation or other matter whatsoever which the Commission thinks it necessary or expedient to investigate for any of the general purposes of this Part or with a view to the making of regulations for those purposes; and for the purposes of this subsection it is immaterial whether the Executive is or is not responsible for securing the enforcement of such (if any) of the relevant statutory provisions as relate to the matter in question.
- (2) The Commission may at any time—
- (a) direct the Executive or authorise any other person to investigate and make a special report on any matter to which this section applies; or
  - (b) with the consent of the Secretary of State direct an inquiry to be held into any such matter;
- F22
- (3) Any inquiry held by virtue of subsection (2)(b) above shall be held in accordance with regulations made for the purposes of this subsection by the Secretary of State, and shall be held in public except where or to the extent that the regulations provide otherwise.
- (4) Regulations made for the purposes of subsection (3) above may in particular include provision—
- (a) conferring on the person holding any such inquiry, and any person assisting him in the inquiry, powers of entry and inspection;
  - (b) conferring on any such person powers of summoning witnesses to give evidence or produce documents and power to take evidence on oath and administer oaths or require the making of declarations;
  - (c) requiring any such inquiry to be held otherwise than in public where or to the extent that a Minister of the Crown so directs.
- (5) In the case of a special report made by virtue of subsection (2)(a) above or a report made by the person holding an inquiry held by virtue of subsection (2)(b) above, the

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Commission may cause the report, or so much of it as the Commission thinks fit, to be made public at such time and in such manner as the Commission thinks fit.

(6) The Commission—

- (a) in the case of an investigation and special report made by virtue of subsection (2)(a) above (otherwise than by an officer or servant of the Executive), may pay to the person making it such remuneration and expenses as the Secretary of State may, with the approval of the Minister for the Civil Service, determine;
- (b) in the case of an inquiry held by virtue of subsection (2)(b) above, may pay to the person holding it and to any assessor appointed to assist him such remuneration and expenses, and to persons attending the inquiry as witnesses such expenses, as the Secretary of State may, with the like approval, determine; and
- (c) may, to such extent as the Secretary of State may determine, defray the other costs, if any, of any such investigation and special report or inquiry.

(7) Where an inquiry is directed to be held by virtue of subsection (2)(b) above into any matter to which this section applies arising in Scotland, being a matter which causes the death of any person, no inquiry with regard to that death shall, unless the Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents [<sup>F23M3</sup> and Sudden Deaths Inquiry (Scotland) Act 1976.]

#### Textual Amendments

**F22** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

**F23** Words substituted by [Fatal Accidents and Sudden Deaths Inquiry \(Scotland\) Act 1976 \(c. 14\)](#), **Sch. 1 para. 4**

#### Modifications etc. (not altering text)

**C73** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**

**C74** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with [art. 11](#))

#### Marginal Citations

**M3** [1976 c. 14](#).

### *Health and safety regulations and approved codes of practice*

## 15 Health and safety regulations.

[<sup>F24</sup>(1) Subject to the provisions of section 50, the Secretary of State <sup>F25</sup> . . . shall have power to make regulations under this section for any of the general purposes of this Part (and regulations so made are in this Part referred to as “health and safety regulations”).]

(2) Without prejudice to the generality of the preceding subsection, health and safety regulations may for any of the general purposes of this Part make provision for any of the purposes mentioned in Schedule 3.

(3) Health and safety regulations—

- (a) may repeal or modify any of the existing statutory provisions;



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- (b) may exclude or modify in relation to any specified class of case any of the provisions of sections 2 to 9 or any of the existing statutory provisions;
  - (c) may make a specified authority or class of authorities responsible, to such extent as may be specified, for the enforcement of any of the relevant statutory provisions.
- (4) Health and safety regulations—
- (a) may impose requirements by reference to the approval of the Commission or any other specified body or person;
  - (b) may provide for references in the regulations to any specified document to operate as reference to that document as revised or re-issued from time to time.
- (5) Health and safety regulations—
- (a) may provide (either unconditionally or subject to conditions, and with or without limit of time) for exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions;
  - (b) may enable exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions to be granted (either unconditionally or subject to conditions, and with or without limit of time) by any specified person or by any person authorised in that behalf by a specified authority.
- (6) Health and safety regulations—
- (a) may specify the persons or classes of persons who, in the event of a contravention of a requirement or prohibition imposed by or under the regulations, are to be guilty of an offence, whether in addition to or to the exclusion of other persons or classes of persons;
  - (b) may provide for any specified defence to be available in proceedings for any offence under the relevant statutory provisions either generally or in specified circumstances;
  - (c) may exclude proceedings on indictment in relation to offences consisting of a contravention of a requirement or prohibition imposed by or under any of the existing statutory provisions, sections 2 to 9 or health and safety regulations;
  - (d) may restrict the punishments [<sup>F26</sup>(other than the maximum fine on conviction on indictment)] which can be imposed in respect of any such offence as is mentioned in paragraph (c) above.
  - [<sup>F27</sup>(e) in the case of regulations made for any purpose mentioned in section 1(1) of the Offshore Safety Act 1992, may provide that any offence consisting of a contravention of the regulations, or of any requirement or prohibition imposed by or under them, shall be punishable on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.]
- (7) Without prejudice to section 35, health and safety regulations may make provision for enabling offences under any of the relevant statutory provisions to be treated as having been committed at any specified place for the purpose of bringing any such offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for any such offence.
- (8) Health and safety regulations may take the form of regulations applying to particular circumstances only or to a particular case only (for example, regulations applying to particular premises only).

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- (9) If an Order in Council is made under section 84(3) providing that this section shall apply to or in relation to persons, premises or work outside Great Britain then, notwithstanding the Order, health and safety regulations shall not apply to or in relation to aircraft in flight, vessels, hovercraft or offshore installations outside Great Britain or persons at work outside Great Britain in connection with submarine cables or submarine pipelines except in so far as the regulations expressly so provide.
- (10) In this section “specified” means specified in health and safety regulations.

#### Textual Amendments

- F24** S. 15(1) substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 6](#)
- F25** Words in S. 15(1) repealed (27.3.2002) by [S.I. 2002/794](#), art. 5(2), [Sch. 2](#)(with art. 6)
- F26** Words inserted by [Criminal Law Act 1977 \(c. 45\)](#), [Sch. 12](#)
- F27** S. 15(6)(e) inserted (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), [s. 4\(1\)\(6\)](#).

#### Modifications etc. (not altering text)

- C75** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
- C76** S. 15 extended (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), [ss. 1\(2\)](#), 2(2).  
 S. 15 extended (31.10.1994) by [1994 c. 21](#), [s. 55\(1\)\(3\)](#) (with s. 40(7)); [S.I. 1994/2553](#), [art. 2](#)  
 S. 15 applied (19.10.1994) by [S.I. 1994/2479](#), [reg. 3](#)  
 S. 15 applied (31.1.1995) by [S.I. 1994/3247](#), [reg. 16\(1\)\(a\)](#)
- C77** [Ss. 1-59, 80-82](#) applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11)
- C78** S. 15 modified (20.9.2001) by [S.I. 2001/2975](#), [reg. 19](#)
- C79** S. 15(1) extended (E.W.S) (2.2.1994) by [1993 c. 43](#), [ss. 117\(3\)\(6\)](#), 150(1)(e); [S.I. 1994/202](#), [art. 2](#)
- C80** S. 15(7): power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), [ss. 2\(4\)\(a\)](#), 5 (with s. 3(5))

## 16 Approval of codes of practice by the Commission.

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of sections 2 to 7 or of health and safety regulations or of any of the existing statutory provisions, the Commission may, subject to the following subsection . . . <sup>F28</sup>
- (a) approve and issue such codes of practice (whether prepared by it or not) as in its opinion are suitable for that purpose;
  - (b) approve such codes of practice issued or proposed to be issued otherwise than by the Commission as in its opinion are suitable for that purpose.
- (2) The Commission shall not approve a code of practice under subsection (1) above without the consent of the Secretary of State, and shall, before seeking his consent, consult—
- (a) any government department or other body that appears to the Commission to be appropriate (and, in particular, in the case of a code relating to electromagnetic radiations, the National Radiological Protection Board); and
  - (b) such government departments and other bodies, if any, as in relation to any matter dealt with in the code, the Commission is required to consult under this section by virtue of directions given to it by the Secretary of State.
- (3) Where a code of practice is approved by the Commission under subsection (1) above, the Commission shall issue a notice in writing—

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- (a) identifying the code in question and stating the date on which its approval by the Commission is to take effect; and
  - (b) specifying for which of the provisions mentioned in subsection (1) above the code is approved.
- (4) The Commission may—
- (a) from time to time revise the whole or any part of any code of practice prepared by it in pursuance of this section;
  - (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this section;
- and the provisions of subsections (2) and (3) above shall, with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1) above.
- (5) The Commission may at any time with the consent of the Secretary of State withdraw its approval from any code of practice approved under this section, but before seeking his consent shall consult the same government departments and other bodies as it would be required to consult under subsection (2) above if it were proposing to approve the code.
- (6) Where under the preceding subsection the Commission withdraws its approval from a code of practice approved under this section, the Commission shall issue a notice in writing identifying the code in question and stating the date on which its approval of it is to cease to have effect.
- (7) References in this Part to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.
- (8) The power of the Commission under subsection (1)(b) above to approve a code of practice issued or proposed to be issued otherwise than by the Commission shall include power to approve a part of such a code of practice; and accordingly in this Part “code of practice” may be read as including a part of such a code of practice.

### Textual Amendments

**F28** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

### Modifications etc. (not altering text)

- C81** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)  
Ss. 16–21, 23, 24, 26, 28, 33, 34, 36–39, 42(1)–(3), 46 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), [reg. 10](#)  
Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), [regs. 7, 9](#)  
Ss. 16–26, 33–42, 47 applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)
- C82** Ss. 16–21 extended (with modifications) (1.4.1999) by [S.I. 1999/743](#), [reg. 20\(1\)](#), (2), (3)  
Ss. 16–21 applied (E.W.S.) (20.9.2001) by [S.I. 2001/2975](#), [reg. 19\(a\)](#)  
Ss. 16–26 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(a\)](#)
- C83** [Ss. 1–59, 80–82](#) applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#))

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## 17 Use of approved codes of practice in criminal proceedings.

- (1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings; but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by or under any such provision as is mentioned in section 16(1) being a provision for which there was an approved code of practice at the time of the alleged contravention, the following subsection shall have effect with respect to that code in relation to those proceedings.
- (2) Any provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings; and if it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.
- (3) In any criminal proceedings—
  - (a) a document purporting to be a notice issued by the Commission under section 16 shall be taken to be such a notice unless the contrary is proved; and
  - (b) a code of practice which appears to the court to be the subject of such a notice shall be taken to be the subject of that notice unless the contrary is proved.

### Modifications etc. (not altering text)

- C84** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)  
 Ss. 16–21, 23, 24, 26, 28, 33, 34, 36–39, 42(1)–(3), 46 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), [reg. 10](#)  
 Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), [regs. 7, 9](#)  
 Ss. 16–26, 33–42, 47 applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)  
 Ss. 16–26 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(a\)](#)
- C85** Ss. 16–21 extended (with modifications) (1.4.1999) by [S.I. 1999/743](#), [reg. 20\(1\)\(a\)](#), (2)(3)  
 Ss. 16–21 applied (E.W.S.) (20.9.2001) by [S.I. 2001/2975](#), [reg. 19\(a\)](#)
- C86** [Ss. 1–59, 80–82](#) applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#))

## *Enforcement*

## 18 Authorities responsible for enforcement of the relevant statutory provisions.

- (1) It shall be the duty of the Executive to make adequate arrangements for the enforcement of the relevant statutory provisions except to the extent that some other authority or class of authorities is by any of those provisions or by regulations under subsection (2) below made responsible for their enforcement.
- (2) The Secretary of State may by regulations—
  - (a) make local authorities responsible for the enforcement of the relevant statutory provisions to such extent as may be prescribed;

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- (b) make provision for enabling responsibility for enforcing any of the relevant statutory provisions to be, to such extent as may be determined under the regulations—
- (i) transferred from the Executive to local authorities or from local authorities to the Executive; or
  - (ii) assigned to the Executive or to local authorities for the purpose of removing any uncertainty as to what are by virtue of this subsection their respective responsibilities for the enforcement of those provisions;
- and any regulations made in pursuance of paragraph (b) above shall include provision for securing that any transfer or assignment effected under the regulations is brought to the notice of persons affected by it.
- (3) Any provision made by regulations under the preceding subsection shall have effect subject to any provision made by health and safety regulations . . . <sup>F29</sup> in pursuance of section 15(3)(c).
- (4) It shall be the duty of every local authority—
- (a) to make adequate arrangements for the enforcement within their area of the relevant statutory provisions to the extent that they are by any of those provisions or by regulations under subsection (2) above made responsible for their enforcement; and
  - (b) to perform the duty imposed on them by the preceding paragraph and any other functions conferred on them by any of the relevant statutory provisions in accordance with such guidance as the Commission may give them.
- (5) Where any authority other than . . . <sup>F29</sup>, the Executive or a local authority is by any of the relevant statutory provisions or by regulations under subsection (2) above made responsible for the enforcement of any of those provisions to any extent, it shall be the duty of that authority—
- (a) to make adequate arrangements for the enforcement of those provisions to that extent; and
  - (b) to perform the duty imposed on the authority by the preceding paragraph and any other functions conferred on the authority by any of the relevant statutory provisions in accordance with such guidance as the Commission may give to the authority.
- (6) Nothing in the provisions of this Act or of any regulations made thereunder charging any person in Scotland with the enforcement of any of the relevant statutory provisions shall be construed as authorising that person to institute proceedings for any offence.
- (7) In this Part—
- (a) “enforcing authority” means the Executive or any other authority which is by any of the relevant statutory provisions or by regulations under subsection (2) above made responsible for the enforcement of any of those provisions to any extent; and
  - (b) any reference to an enforcing authority’s field of responsibility is a reference to the field over which that authority’s responsibility for the enforcement of those provisions extends for the time being;
- but where by virtue of paragraph (a) of section 13(1) the performance of any function of the Commission or the Executive is delegated to a government department or person, references to the Commission or the Executive (or to an enforcing authority

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where that authority is the Executive) in any provision of this Part which relates to that function shall, so far as may be necessary to give effect to any agreement under that paragraph, be construed as references to that department or person; and accordingly any reference to the field of responsibility of an enforcing authority shall be construed as a reference to the field over which that department or person for the time being performs such a function.

### Textual Amendments

**F29** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

### Modifications etc. (not altering text)

- C87** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**  
 Ss. 16–21, 23, 24, 26, 28, 33, 34, 36–39, 42(1)–(3), 46 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), **reg. 10**  
 Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), **regs. 7, 9**  
 Ss. 18–20: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), **ss. 2(4)(b), 5** (with [s. 3\(5\)](#))  
 Ss. 18–27, 33(1)(e)–(i)(n)(o)(2)–(4), 34(2)–(6), 36(1), 37–42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), **reg. 17**  
 Ss. 16–26, 33–42, 47 applied (15.11.2000) by [S.I. 2000/2831](#), **reg. 26(1)(a)**
- C88** S. 18 extended (with modifications) (1.4.1999) by [S.I. 1999/743](#), **reg. 20(1)–(3)**  
 S. 18 applied (E.W.S.) (20.9.2001) by [S.I. 2001/2975](#), **reg. 19(a)**  
 S. 18 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), **reg. 14(1)(a)**  
 S. 18 applied (31.3.2002) by [S.I. 2002/528](#), **reg. 10**
- C89** Ss. 18–26 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), **reg. 16(1)**
- C90** [Ss. 1–59, 80–82](#) applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with [art. 11](#))
- C91** S. 18 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**
- C92** S. 18(1) applied (with modifications) (1.4.1999) (with savings) by [S.I. 1999/743](#), **reg. 20(3)(4)**
- C93** S. 18(6) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2), 28(3)(b)(5)(a)**
- C94** Ss. 18(6)(7)(b), 19–22, 23(1)(2)(5), 24–26, 33(1)(e)–(h)(o)(2)(2A)(3)(4)(e), 34(3)–(5), 35, 36(1)(2), 37–39, 42 applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), **reg. 17(3)(5)**
- C95** S. 18(7) applied by [Fire Precautions Act 1971 \(c. 40, SIF 50\)](#), **s. 21(3)** as inserted by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 50\)](#), **s. 11**
- C96** S. 18(7)(b) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2), 28(3)(b)(5)(a)**

## 19 Appointment of inspectors.

- (1) Every enforcing authority may appoint as inspectors (under whatever title it may from time to time determine) such persons having suitable qualifications as it thinks necessary for carrying into effect the relevant statutory provisions within its field of responsibility, and may terminate any appointment made under this section.
- (2) Every appointment of a person as an inspector under this section shall be made by an instrument in writing specifying which of the powers conferred on inspectors by the relevant statutory provisions are to be exercisable by the person appointed; and an inspector shall in right of his appointment under this section—
  - (a) be entitled to exercise only such of those powers as are so specified; and
  - (b) be entitled to exercise the powers so specified only within the field of responsibility of the authority which appointed him.

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- (3) So much of an inspector's instrument of appointment as specifies the powers which he is entitled to exercise may be varied by the enforcing authority which appointed him.
- (4) An inspector shall, if so required when exercising or seeking to exercise any power conferred on him by any of the relevant statutory provisions, produce his instrument of appointment or a duly authenticated copy thereof.

#### **Modifications etc. (not altering text)**

- C97** S. 19 applied by [S.I. 1989/840](#), [arts. 2-10](#)
- C98** S. 19 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), [reg. 28](#), [Sch. 6 para. 1\(b\)](#)  
 S. 19 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), [reg. 10](#)  
 S. 19 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), [regs. 7, 9](#)  
 S. 19 applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), [reg. 17\(3\)\(5\)](#)  
 S. 19: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), [ss. 2\(4\)\(b\)](#), 5 (with s. 3(5))  
 S. 19 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)  
 S. 19 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), [reg. 15](#), [Sch. 14 para. 1\(b\)](#);  
 S. 19 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), [reg. 19\(1\)-\(4\)](#), [Sch. 15 para. 1\(a\)\(b\)](#)
- C99** S. 19 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), 28(3)(b)(5)(a)  
 S. 19 restricted (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 30\(3\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/186](#), [art. 3](#)  
 S. 19 applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)
- C100** S. 19 extended (with modifications) (1.4.1999) by [S.I. 1999/743](#), [reg. 20\(1\)\(2\)\(3\)](#)  
 S. 19 applied (E.W.S.) (20.9.2001) by [S.I. 2001/2975](#), [reg. 19\(a\)](#)  
 S. 19 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(a\)](#) S. 19 applied (31.3.2002) by [S.I. 2002/528](#), [reg. 10](#)  
 S. 19 applied (16.5.2002) by [S.I. 2002/1166](#), [reg. 31](#) (with art. 37)
- C101** S. 19 applied (12.4.1999) by [S.I. 1999/743](#), [reg. 22\(7\)](#)
- C102** S. 19 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), [reg. 16\(1\)](#)
- C103** S. 19 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), [reg. 24\(1\)](#), [Sch. 8 para. 1\(b\)](#)
- C104** S. 19 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C105** S. 19 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by [S.I. 2003/403](#), [regs. 1\(2\)](#), [23\(2\)\(a\)\(3\)](#); ss. 19-22 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(a\)](#); s. 19 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), [reg. 17](#); s. 19 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), [reg. 4\(2\)\(3\)\(5\)\(6\)](#); ss. 19-22 applied (2.4.2006) by [S.I. 2006/397](#), [reg. 34](#)
- C106** S. 19 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\)](#), [art. 4\(2\)\(3\)\(a\)](#) (subject to (4)-(6)) (with art. 7)
- C107** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C108** S. 19 applied (with modifications) (E.W.S.) (6.4.2010) by [The Rail Vehicle Accessibility \(Non-Interoperable Rail System\) Regulations 2010 \(S.I. 2010/432\)](#), [reg. 6\(2\)\(3\)\(a\)](#)
- C109** S. 19 applied (with modifications) (E.W.S.) (6.4.2010) by [The Train Driving Licences and Certificates Regulations 2010 \(S.I. 2010/724\)](#), [regs. 1\(2\)](#), [38\(2\)\(3\)\(a\)](#)
- C110** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\)](#), [regs. 1, 18, 37\(1\)](#), {Sch. 4 paras. 1, 2}

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**C111** S. 19(2)(3) excluded (E.W.S.) (15.2.1999) by 1998 c. 17, s. 8(2)(c), (with s. 9(1)(2), Sch. 3 para. 5); S.I. 1999/161, art. 2(1)(2)

## 20 Powers of inspectors.

- (1) Subject to the provisions of section 19 and this section, an inspector may, for the purpose of carrying into effect any of the relevant statutory provisions within the field of responsibility of the enforcing authority which appointed him, exercise the powers set out in subsection (2) below.
- (2) The powers of an inspector referred to in the preceding subsection are the following, namely—
  - (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned in subsection (1) above;
  - (b) to take with him a constable if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
  - (c) without prejudice to the preceding paragraph, on entering any premises by virtue of paragraph (a) above to take with him—
    - (i) any other person duly authorised by his (the inspector's) enforcing authority; and
    - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
  - (d) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in subsection (1) above;
  - (e) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (d) above;
  - (f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above;
  - (g) to take samples of any articles or substances found in any premises which he has power to enter, and of the atmosphere in or in the vicinity of any such premises;
  - (h) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose mentioned in subsection (1) above);
  - (i) in the case of any such article or substance as is mentioned in the preceding paragraph, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
    - (i) to examine it and do to it anything which he has power to do under that paragraph;
    - (ii) to ensure that it is not tampered with before his examination of it is completed;



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- (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to a notice under section 21 or 22;
  - (j) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (d) above to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;
  - (k) to require the production of, inspect, and take copies of or of any entry in—
    - (i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept; and
    - (ii) any other books or documents which it is necessary for him to see for the purposes of any examination or investigation under paragraph (d) above;
  - (l) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this section;
  - (m) any other power which is necessary for the purpose mentioned in subsection (1) above.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(g) above (including provision as to the way in which samples that have been so taken are to be dealt with).
- (4) Where an inspector proposes to exercise the power conferred by subsection (2)(h) above in the case of an article or substance found in any premises, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of the State.
- (5) Before exercising the power conferred by subsection (2)(h) above in the case of any article or substance, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.
- (6) Where under the power conferred by subsection (2)(i) above an inspector takes possession of any article or substance found in any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (7) No answer given by a person in pursuance of a requirement imposed under subsection (2)(j) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings.
- (8) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled

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to withhold production on an order for discovery in an action in the High Court or, as the case may be, on an order for the production of documents in an action in the Court of Session.

#### **Modifications etc. (not altering text)**

- C112** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**  
 Ss. 16–21, 23, 24, 26, 28, 33, 34, 36–39, 42(1)–(3), 46 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 Ss. 18(6)(7)(b), 19–22, 23(1)(2)(5), 24–26, 33(1)(e)–(h)(o)(2)(2A)(3)(4)(e), 34(3)–(5), 35, 36(1)(2), 37–39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**  
 Ss. 18–20: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(b), 5** (with s. 3(5))  
 Ss. 18–27, 33(1)(e)–(i)(n)(o)(2)–(4), 34(2)–(6), 36(1), 37–42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**  
 Ss. 19–28, 33–35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
 Ss. 19–28, 33–35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)–(4), Sch. 15 para. 1(a)(b)**  
 Ss. 16–26, 33–42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C113** S. 20 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(3), **Sch. 8 para. 6(4)**  
 S. 20 applied (E.W.S.) (15.12.1999) by 1998 c. 17, **s. 8(1)**, (with s. 9(1)(2), Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)(2)**
- C114** Ss. 19–28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C115** Ss. 19–28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C116** Ss. 16–21 extended (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1), (2)(3)**  
 Ss. 16–21 applied (E.W.S.) (20.9.2001) by S.I. 2001/2975, **reg. 19(a)**  
 Ss. 16–26 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(a)**  
 Ss. 18–26 applied (31.3.2002) by S.I. 2002/528, **reg. 10**  
 Ss. 19–22 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C117** Ss. 18–26 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C118** Ss. 19–28 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C119** S. 20 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C120** S. 20 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**; s. 19–22 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(a)**; s. 20 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 20 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; ss. 19–22 applied (2.4.2006) by S.I. 2006/397, **reg. 34**

## **21 Improvement notices.**

If an inspector is of the opinion that a person—

- (a) is contravening one or more of the relevant statutory provisions; or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

he may serve on him a notice (in this Part referred to as “an improvement notice”) stating that he is of that opinion, specifying the provision or provisions as to which he is of that opinion, giving particulars of the reasons why he is of that opinion, and requiring that person to remedy the contravention or, as the case may be, the matters occasioning it within such period (ending not earlier than the period within which an

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appeal against the notice can be brought under section 24) as may be specified in the notice.

#### Modifications etc. (not altering text)

- C121** S. 21 applied by S.I. 1989/840, **arts. 2-10**  
 S. 21 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 21 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 21 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**  
 S. 21: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(c), 5** (with s. 3(5))  
 S. 21 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**  
 S. 21 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
**S. 21** applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 21 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C122** S. 21 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6, para. 1(b)**  
 S. 21 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 13(1)**
- C123** S. 21 modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**  
 S. 21 modified (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- C124** S. 21 extended (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)-(3)**  
 S. 21 applied (E.W.S.) (20.9.2001) by S.I. 2001/2975, **reg. 19(a)**  
 S. 21 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(a)**  
 S. 21 applied (31.3.2002) by S.I. 2002/528, **reg. 10**  
 S. 21 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C125** S. 21 applied (1.4.1999) by S.I. 1999/743, **reg. 20(5)**
- C126** S. 21 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C127** S. 21 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C128** S. 21 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C129** S. 19-22 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(a)** ; s. 21 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; ss. 19-22 applied (2.4.2006) by S.I. 2006/397, **reg. 34**
- C130** S. 21 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007** (S.I. 2007/3531), **art. 4(2)(3)(b)** (subject to (4)-(6)) (with art. 7)
- C131** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by **The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001** (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C132** S. 21 applied (with modifications) (E.W.S.) (6.4.2010) by **The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010** (S.I. 2010/432), **reg. 6(2)(3)(b)**
- C133** S. 21 applied (with modifications) (E.W.S.) (6.4.2010) by **The Train Driving Licences and Certificates Regulations 2010** (S.I. 2010/724), **regs. 1(2), 38(2)(3)(b)**
- C134** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by **The Pyrotechnic Articles (Safety) Regulations 2010** (S.I. 2010/1554), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}

## 22 Prohibition notices.

- (1) This section applies to any activities which are being or are [F30]likely to be carried on by or under the control of any person, being activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are so carried on, apply.

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- (2) If as regards any activities to which this section applies an inspector is of the opinion that, as carried on or [<sup>F30</sup>likely] to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve a risk of serious personal injury, the inspector may serve on that person a notice (in this Part referred to as “a prohibition notice”).
- (3) A prohibition notice shall—
- (a) state that the inspector is of the said opinion;
  - (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;
  - (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
  - (d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of paragraph (b) above and any associated contraventions of provisions so specified in pursuance of paragraph (c) above have been remedied.
- [<sup>F31</sup>(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) above shall take effect—
- (a) at the end of the period specified in the notice; or
  - (b) if the notice so declares, immediately.]

#### Textual Amendments

**F30** Word substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 2(a)**

**F31** S. 22(4) substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 2(b)**

#### Modifications etc. (not altering text)

**C135** S. 22 applied by [S.I. 1989/840](#), **arts. 2-10**

S. 22 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), **regs. 7, 9**

S. 22 applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), **reg. 17(3)(5)**

S. 22: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(c), 5** (with s. 3(5))

S. 22 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), **reg. 17**

S. 22 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), **reg. 15, Sch. 14 para. 1(b)**

**S. 22** applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**

S. 22 applied (15.11.2000) by [S.I. 2000/2831](#), **reg. 26(1)(a)**

**C136** S. 22 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), **reg. 28, Sch. 6 para. 1(b)**

S. 21 applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), **reg. 13(1)**

**C137** S. 22 modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2), 28(3)(b)(5)(a)**

S. 22 modified (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(4)** (with ss. 7(6), 115, 117); [S.I. 1996/186](#), **art. 3**

S. 22 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), **reg. 14(1)(a)**

S. 22 applied (31.3.2002) by [S.I. 2002/528](#), **reg. 10**

S. 22 applied (16.5.2002) by [S.I. 2002/1166](#), **reg. 31** (with art. 37)

**C138** S. 22 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), **reg. 16(1)**

**C139** S. 22 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), **reg. 24(1), Sch. 8 para. 1(b)**

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- C140** S. 22 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C141** S. 19-22 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(a)**; s. 22 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; ss. 19-22 applied (2.4.2006) by S.I. 2006/397, **reg. 34**
- C142** S. 22 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(b)** (subject to (4)-(6)) (with art. 7)
- C143** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by **The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C144** S. 22 applied (with modifications) (E.W.S.) (6.4.2010) by **The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), reg. 6(2)(3)(b)**
- C145** S. 22 applied (with modifications) (E.W.S.) (6.4.2010) by **The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), regs. 1(2), 38(2)(3)(b)**
- C146** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by **The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}

## 23 Provisions supplementary to ss. 21 and 22. **E+W**

- (1) In this section “a notice” means an improvement notice or a prohibition notice.
- (2) A notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions—
  - (a) may be framed to any extent by reference to any approved code of practice; and
  - (b) may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.
- (3) Where any of the relevant statutory provisions applies to a building or any matter connected with a building and an inspector proposes to serve an improvement notice relating to a contravention of that provision in connection with that building or matter, the notice shall not direct any measures to be taken to remedy the contravention of that provision which are more onerous than those necessary to secure conformity with the requirements of any building regulations for the time being in force to which that building or matter would be required to conform if the relevant building were being newly erected unless the provision in question imposes specific requirements more onerous than the requirements of any such building regulations to which the building or matter would be required to conform as aforesaid.

In this subsection “the relevant building”, in the case of a building, means that building, and, in the case of a matter connected with a building, means the building with which the matter is connected.

- (4) Before an inspector serves in connection with any premises used or about to be used as a place of work a notice requiring or likely to lead to the taking of measures affecting the means of escape in case of fire with which the premises are or ought to be provided, he shall consult the [<sup>F32</sup>fire and rescue authority] .

In this subsection [<sup>F32</sup>fire and rescue authority] has the meaning assigned by section 43(1) of the <sup>M4</sup>Fire Precautions Act 1971.

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- (5) Where an improvement notice or a prohibition notice which is not to take immediate effect has been served—
- (a) the notice may be withdrawn by an inspector at any time before the end of the period specified therein in pursuance of section 21 or section 22(4) as the case may be; and
  - (b) the period so specified may be extended or further extended by an inspector at any time when an appeal against the notice is not pending.
- (6) In the application of this section to Scotland—
- (a) in subsection (3) for the words from “with the requirements” to “aforesaid” there shall be substituted the words—
    - “(a) to any provisions of the building standards regulations to which that building or matter would be required to conform if the relevant building were being newly erected; or
    - (b) where the sheriff, on an appeal to him under section 16 of the Building (Scotland) Act 1959—
      - (i) against an order under section 10 of that Act requiring the execution of operations necessary to make the building or matter conform to the building standards regulations, or
      - (ii) against an order under section 11 of that Act requiring the building or matter to conform to a provision of such regulations,
 has varied the order, to any provisions of the building standards regulations referred to in paragraph (a) above as affected by the order as so varied,
- unless the relevant statutory provision imposes specific requirements more onerous than the requirements of any provisions of building standards regulations as aforesaid or, as the case may be, than the requirements of the order as varied by the sheriff. ”;
- (b) after subsection (5) there shall be inserted the following subsection—
 

“(5A) In subsection (3) above ”building standards regulations’ has the same meaning as in section 3 of the Building (Scotland) Act 1959.”.

#### **Extent Information**

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

#### **Textual Amendments**

- F32** Words in s. 23(4) substituted (E.W.) (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 53, [Sch. 1 para. 44](#); S.I. 2004/2304, [art. 2](#), (with art. 3); S.I. 2004/2917, [art. 2](#)

#### **Modifications etc. (not altering text)**

- C147** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)  
 Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), [regs. 7, 9](#)

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- Ss. 16-21, 23, 24, 26, 28, 33, 34, 36-39, 42(1)-(3), 46 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**
- S. 21-24: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(c), 5** (with s. 3(5))
- Ss. 18-27, 33(1)(e)-(i)(n)(o)(2)-(4), 34(2)-(6), 36(1), 37-42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**
- Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**
- Ss. 16-26, 33-42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- Ss. 16-26 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(a)**
- Ss. 18-26 applied (31.3.2002) by S.I. 2002/528, **reg. 10**
- S. 23 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C148** Ss. 19-28 applied (with modifications) (1.1.1993) by S.I.1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C149** Ss. 19-28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**  
Ss. 21-23 modified (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- C150** S. 23 extended (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(b), (2)(3)**
- C151** Ss. 23 extended (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C152** Ss. 19-28 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C153** S. 23 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C154** S. 23 applied (E.W.S.) (20.9.2001) by S.I. 2001/2975, **reg. 19(b)**
- C155** S. 23 applied (with modifications) (3.5.2004) by The Cableway Installations Regulations 2004 (S.I. 2004/129), **reg. 23(3)(b)**
- C156** S. 23 applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 23 applied (E.W.S.) (2.4.2006) by S.I. 2006/397, **reg. 34**
- C157** Ss. 18(6)(7)(b), 19-22, 23(1)(2)(5), 24-26, 33(1)(e)-(h)(o)(2)(2A)(3)(4)(e), 34(3)-(5), 35, 36(1)(2), 37-39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C158** S. 23(4) applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(5)**

#### Marginal Citations

**M4** 1971 c. 40.

## 23 Provisions supplementary to ss. 21 and 22. **S+N.I.**

- (1) In this section “a notice” means an improvement notice or a prohibition notice.
- (2) A notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions—
  - (a) may be framed to any extent by reference to any approved code of practice; and
  - (b) may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.
- (3) Where any of the relevant statutory provisions applies to a building or any matter connected with a building and an inspector proposes to serve an improvement notice relating to a contravention of that provision in connection with that building or matter, the notice shall not direct any measures to be taken to remedy the contravention of that provision which are more onerous than those necessary to secure conformity with the requirements of any building regulations for the time being in force to which that building or matter would be required to conform if the relevant building were being newly erected unless the provision in question imposes specific requirements more

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onerous than the requirements of any such building regulations to which the building or matter would be required to conform as aforesaid.

In this subsection “the relevant building”, in the case of a building, means that building, and, in the case of a matter connected with a building, means the building with which the matter is connected.

- (4) Before an inspector serves in connection with any premises used or about to be used as a place of work a notice requiring or likely to lead to the taking of measures affecting the means of escape in case of fire with which the premises are or ought to be provided, he shall consult the fire authority.

In this subsection “fire authority” has the meaning assigned by section 43(1) of the <sup>M4</sup>Fire Precautions Act 1971.

- (5) Where an improvement notice or a prohibition notice which is not to take immediate effect has been served—

- (a) the notice may be withdrawn by an inspector at any time before the end of the period specified therein in pursuance of section 21 or section 22(4) as the case may be; and
- (b) the period so specified may be extended or further extended by an inspector at any time when an appeal against the notice is not pending.

- (6) In the application of this section to Scotland—

- (a) in subsection (3) for the words from “with the requirements” to “aforesaid” there shall be substituted the words—

“(a) to any provisions of the building standards regulations to which that building or matter would be required to conform if the relevant building were being newly erected; or

- (b) where the sheriff, on an appeal to him under section 16 of the Building (Scotland) Act 1959—

- (i) against an order under section 10 of that Act requiring the execution of operations necessary to make the building or matter conform to the building standards regulations, or

- (ii) against an order under section 11 of that Act requiring the building or matter to conform to a provision of such regulations,

has varied the order, to any provisions of the building standards regulations referred to in paragraph (a) above as affected by the order as so varied,

unless the relevant statutory provision imposes specific requirements more onerous than the requirements of any provisions of building standards regulations as aforesaid or, as the case may be, than the requirements of the order as varied by the sheriff.”;

- (b) after subsection (5) there shall be inserted the following subsection—

“(5A) In subsection (3) above “building standards regulations” has the same meaning as in section 3 of the Building (Scotland) Act 1959.”.



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### Extent Information

- E5** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

### Modifications etc. (not altering text)

- C147** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**  
Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
Ss. 16–21, 23, 24, 26, 28, 33, 34, 36–39, 42(1)–(3), 46 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
S. 21–24: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(c), 5** (with s. 3(5))  
Ss. 18–27, 33(1)(e)–(i)(n)(o)(2)–(4), 34(2)–(6), 36(1), 37–42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**  
Ss. 19–28, 33–35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
Ss. 19–28, 33–35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)–(4), Sch. 15 para. 1(a)(b)**  
Ss. 16–26, 33–42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**  
Ss. 16–26 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(a)**  
Ss. 18–26 applied (31.3.2002) by S.I. 2002/528, **reg. 10**  
S. 23 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C148** Ss. 19–28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C149** Ss. 19–28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**  
Ss. 21–23 modified (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- C150** S. 23 extended (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(b), (2)(3)**
- C151** Ss. 23 extended (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C152** Ss. 19–28 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C153** S. 23 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C154** S. 23 applied (E.W.S.) (20.9.2001) by S.I. 2001/2975, **reg. 19(b)**
- C155** S. 23 applied (with modifications) (3.5.2004) by The Cableway Installations Regulations 2004 (S.I. 2004/129), **reg. 23(3)(b)**
- C156** S. 23 applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 23 applied (E.W.S.) (2.4.2006) by S.I. 2006/397, **reg. 34**
- C157** Ss. 18(6)(7)(b), 19–22, 23(1)(2)(5), 24–26, 33(1)(e)–(h)(o)(2)(2A)(3)(4)(e), 34(3)–(5), 35, 36(1)(2), 37–39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C158** S. 23(4) applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(5)**

### Marginal Citations

- M4** 1971 c. 40.

## 24 Appeal against improvement or prohibition notice.

- (1) In this section “a notice” means an improvement notice or a prohibition notice.
- (2) A person on whom a notice is served may within such period from the date of its service as may be prescribed appeal to an [<sup>F33</sup>employment tribunal]; and on such an appeal the tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the tribunal may in the circumstances think fit.

*Status: Point in time view as at 01/01/2005.*

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- (3) Where an appeal under this section is brought against a notice within the period allowed under the preceding subsection, then—
- (a) in the case of an improvement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal;
  - (b) in the case of a prohibition notice, the bringing of the appeal shall have the like effect if, but only if, on the application of the appellant the tribunal so directs (and then only from the giving of the direction).
- (4) One or more assessors may be appointed for the purposes of any proceedings brought before an [F33 employment tribunal] under this section.

### Textual Amendments

**F33** Words in s. 24(2)(4) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

### Modifications etc. (not altering text)

- C159** S. 24 applied by S.I. 1989/840, **arts. 2-10**  
 S. 24 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 24 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 24 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**  
 S. 24: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(c), 5** (with s. 3(5))  
 S. 24 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**  
 S. 24 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
 S. 24 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 24 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**  
 S. 24 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(a)**  
 S. 24 applied (31.3.2002) by S.I. 2002/528, **reg. 10**  
 S. 24 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C160** S. 24 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C161** S. 24 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C162** S. 24 applied (1.4.1999) by S.I. 1999/743, **reg. 18(6)**
- C163** S. 24 excluded (1.4.1999) by S.I. 1999/743, **reg. 22(6)(c)**
- C164** S. 24 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C165** S. 24 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C166** S. 24 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C167** S. 24 applied (E.W.S.) (20.9.2001) by S.I. 2001/2975, **reg. 19(b)**
- C168** S. 24 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(b)**; s. 24 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 24 applied (2.4.2006) by S.I. 2006/397, **reg. 34**
- C169** S. 24 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007** (S.I. 2007/3531), **art. 4(2)(3)(d)** (subject to (4)-(6)) (with art. 7)
- C170** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by **The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001** (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C171** S. 24 applied (with modifications) (E.W.S.) (6.4.2010) by **The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010** (S.I. 2010/432), **reg. 6(2)(3)(d)**
- C172** S. 24 applied (with modifications) (E.W.S.) (6.4.2010) by **The Train Driving Licences and Certificates Regulations 2010** (S.I. 2010/724), **regs. 1(2), 38(2)(3)(d)**

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**C173** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\)](#), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}

## 25 Power to deal with cause of imminent danger.

- (1) Where, in the case of any article or substance found by him in any premises which he has power to enter, an inspector has reasonable cause to believe that, in the circumstances in which he finds it, the article or substance is a cause of imminent danger of serious personal injury, he may seize it and cause it to be rendered harmless (whether by destruction or otherwise).
- (2) Before there is rendered harmless under this section—
  - (a) any article that forms part of a batch of similar articles; or
  - (b) any substance,
 the inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises where the article or substance was found by him a portion of the sample marked in a manner sufficient to identify it.
- (3) As soon as may be after any article or substance has been seized and rendered harmless under this section, the inspector shall prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and so dealt with by him, and shall—
  - (a) give a signed copy of the report to a responsible person at the premises where the article or substance was found by him; and
  - (b) unless that person is the owner of the article or substance, also serve a signed copy of the report on the owner;
 and if, where paragraph (b) above applies, the inspector cannot after reasonable enquiry ascertain the name or address of the owner, the copy may be served on him by giving it to the person to whom a copy was given under the preceding paragraph.

### Modifications etc. (not altering text)

**C174** S. 25 applied by [S.I. 1989/840](#), **arts. 2-10**

S. 25 applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), **reg. 17(3)(5)**

S. 25: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), **ss. 2(4)(d)**, 5 (with s. 3(5))

S. 25 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), **reg. 17**

S. 25 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), **reg. 15**, **Sch. 14 para. 1(b)**

S. 25 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), **reg. 19(1)-(4)**, **Sch. 15 para. 1(a)(b)**

S. 25 applied (15.11.2000) by [S.I. 2000/2831](#), **reg. 26(1)(a)**

S. 25 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), **reg. 14(1)(a)**

S. 25 applied (31.3.2002) by [S.I. 2002/528](#), **reg. 10**

**C175** Ss. 19-28 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), **reg. 28**, **Sch. 6 para. 1(b)**

**C176** S. 25 modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)

**C177** S. 25 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), **reg. 16(1)**

**C178** S. 25 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), **reg. 24(1)**, **Sch. 8 para. 1(b)**

**C179** S. 25 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1)**, 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by [S.I. 2009/1750](#), **art. 2(2)(4)**)

**C180** S. 25 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**

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- C181** S. 25 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\)](#), [art. 4\(2\)\(3\)\(e\)](#) (subject to (4)-(6)) (with [art. 7](#))
- C182** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C183** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\)](#), [regs. 1, 18, 37\(1\)](#), {Sch. 4 paras. 1, 2}

### [<sup>F34</sup>25A Power of customs officer to detain articles and substances.

- (1) A customs officer may, for the purpose of facilitating the exercise or performance by any enforcing authority or inspector of any of the powers or duties of the authority or inspector under any of the relevant statutory provisions, seize any imported article or imported substance and detain it for not more than two working days.
- (2) Anything seized and detained under this section shall be dealt with during the period of its detention in such manner as the Commissioners of Customs and Excise may direct.
- (3) In subsection (1) above the reference to two working days is a reference to a period of forty-eight hours calculated from the time when the goods in question are seized but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act <sup>M5</sup>1971 in the part of Great Britain where the goods are seized.]

#### Textual Amendments

- F34** S. 25A inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, [Sch. 3 para. 3](#)

#### Modifications etc. (not altering text)

- C184** Ss. 19-28 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), [reg. 28](#), [Sch. 6 para. 1\(b\)](#)  
 Ss. 18(6)(7)(b), 19-22, 23(1)(2)(5), 24-26, 33(1)(e)-(h)(o)(2)(2A)(3)(4)(e), 34(3)-(5), 35, 36(1)(2), 37-39, 42 applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), [reg. 17\(3\)\(5\)](#)  
 Ss. 18-27, 33(1)(e)-(i)(n)(o)(2)-(4), 34(2)-(6), 36(1), 37-42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), [reg. 15](#), [Sch. 14 para. 1\(b\)](#)  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), [reg. 19\(1\)-\(4\)](#), [Sch. 15 para. 1\(a\)\(b\)](#)  
 Ss. 16-26, 33-42, 47 applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)  
 Ss. 16-26 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(a\)](#)  
 Ss. 18-26 applied (31.3.2002) by [S.I. 2002/528](#), [reg. 10](#)
- C185** Ss. 19-28 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), 28(3)(b)(5)(a)
- C186** Ss. 18-26 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), [reg. 16\(1\)](#)
- C187** Ss. 19-28 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), [reg. 24\(1\)](#), [Sch. 8 para. 1\(b\)](#)
- C188** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C189** S. 25A applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(c\)](#); s. 25A applied (with modifications) (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), {[reg. 4\(2\)-\(6\)](#)}

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**Changes to legislation:** Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- C190** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C191** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}

### Marginal Citations

**M5** 1971 c.80

## 26 Power of enforcing authorities to indemnify their inspectors.

Where an action has been brought against an inspector in respect of an act done in the execution or purported execution of any of the relevant statutory provisions and the circumstances are such that he is not legally entitled to require the enforcing authority which appointed him to indemnify him, that authority may, nevertheless, indemnify him against the whole or part of any damages and costs or expenses which he may have been ordered to pay or may have incurred, if the authority is satisfied that he honestly believed that the act complained of was within his powers and that his duty as an inspector required or entitled him to do it.

### Modifications etc. (not altering text)

- C192** S. 26 applied by S.I. 1989/840, **arts. 2-10**
- S. 26 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**
- S. 26 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**
- S. 26 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(a)**
- S. 26 applied (31.3.2002) by S.I. 2002/528, **reg. 10**
- S. 26 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- S. 26 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- S. 26: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(b)**, 5 (with s. 3(5)) S. 26 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- S. 26 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**
- S. 26 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**
- S. 26 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C193** S. 26 applied (with modifications) (1.1.1993) by S.I.1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C194** S. 26 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C195** S. 26 extended (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(c)**, (2)(3)
- C196** S. 26 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C197** S. 26 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C198** S. 26 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C199** S. 26 applied (E.W.S.) (20.9.2001) by S.I. 2001/2975, **reg. 19(c)**
- C200** S. 26 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**; s. 26 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(c)**; s. 26 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 26 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 26 applied (2.4.2006) by S.I. 2006/397, **reg. 34**
- C201** S. 26 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(f)** (subject to (4)-(6)) (with art. 7)

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- C202** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C203** S. 26 applied (with modifications) (E.W.S.) (6.4.2010) by The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), **reg. 6(2)(3)(e)**
- C204** S. 26 applied (with modifications) (E.W.S.) (6.4.2010) by The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), regs. 1(2), **38(2)(3)(e)**
- C205** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}

### *Obtaining and disclosure of information*

## **27 Obtaining of information by the Commission, the Executive, enforcing authorities etc.**

- (1) For the purpose of obtaining—
- (a) any information which the Commission needs for the discharge of its functions; or
  - (b) any information which an enforcing authority needs for the discharge of the authority’s functions,

the Commission may, with the consent of the Secretary of State, serve on any person a notice requiring that person to furnish to the Commission or, as the case may be, to the enforcing authority in question such information about such matters as may be specified in the notice, and to do so in such form and manner and within such time as may be so specified.

In this subsection “consent” includes a general consent extending to cases of any stated description.

- (2) Nothing in section 9 of the <sup>M6</sup>Statistics of Trade Act 1947 (which restricts the disclosure of information obtained under that Act) shall prevent or penalise—
- (a) the disclosure by a Minister of the Crown to the Commission or the Executive of information obtained under that Act about any undertaking within the meaning of that Act, being information consisting of the names and address of the persons carrying on the undertaking, the nature of the undertaking’s activities, the numbers of persons of different descriptions who work in the undertaking, the addresses or places where activities of the undertaking are or were carried on, the nature of the activities carried on there, or the numbers of person of different descriptions who work or worked in the undertaking there; . . . <sup>F35</sup>
  - (b) . . . . . <sup>F35</sup>
- (3) In the preceding subsection any reference to a Minister of the Crown, the Commission [<sup>F36</sup>or the Executive] includes respectively a reference to an officer of his or of that body and also, in the case of a reference to the Commission, includes a reference to—
- (a) a person performing any functions of the Commission or the Executive on its behalf by virtue of section 13(1)(a);
  - (b) an officer of a body which is so performing any such functions; and
  - (c) an adviser appointed in pursuance of section 13(1)(d).

*Status: Point in time view as at 01/01/2005.*

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- (4) A person to whom information is disclosed in pursuance of subsection (2) above shall not use the information for a purpose other than a purpose of the Commission or, as the case may be, of the Executive.

#### Textual Amendments

- F35** S. 27(2)(b) and the word “or” immediately preceding it repealed by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3)(4), [Sch. 6 para. 10\(2\)](#), [Sch. 7 pt. 1](#)
- F36** Words substituted by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), [Sch. 6 para. 10\(3\)](#)

#### Modifications etc. (not altering text)

- C206** S. 27 applied by [S.I. 1989/840](#), [arts. 2-10](#)
- S. 27: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), [ss. 2\(4\)\(e\)](#), 5 (with s. 3(5))
- S. 27 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)
- S. 27 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), [reg. 15](#), [Sch. 14 para. 1\(b\)](#)
- S. 27 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), [reg. 19\(1\)-\(4\)](#), [Sch. 15 para. 1\(a\)\(b\)](#)
- C207** Ss. 19-28 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), 28(3)(b)(5)(a)
- S. 27 extended (with modifications) (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 30\(5\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186](#), [art. 3](#)
- C208** S. 27 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), [reg. 28](#), [Sch. 6 para. 1\(b\)](#)
- C209** S. 27 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), [reg. 24\(1\)](#), [Sch. 8 para. 1\(b\)](#)
- C210** S. 27 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#))
- C211** S. 27 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(d\)](#); s. 27 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), [reg. 17](#); s. 27 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), [reg. 4\(2\)\(3\)\(5\)\(6\)](#)
- C212** S. 27(1) applied (with modifications) (E.W.S.) (22.9.2003) by [S.I. 2003/403](#), [reg. 23\(2\)\(d\)\(3\)\(5\)](#) (as amended (25.11.2006) by [S.I. 2006/2815](#), [reg. 8](#))

#### Marginal Citations

- M6** [1947 c. 39](#).

### [<sup>F37</sup>27A Information communicated by the Commissioners of Customs and Excise .

- (1) If they think it appropriate to do so for the purpose of facilitating the exercise or performance by any person to whom sub-section (2) below applies of any of that person’s powers or duties under any of the relevant statutory provisions, the Commissioners of Customs and Excise may authorise the disclosure to that person of any information obtained for the purposes of the exercise by the Commissioners of their functions in relation to imports.
- (2) This subsection applies to an enforcing authority and to an inspector.
- (3) A disclosure of information made to any person under subsection (1) above shall be made in such manner as may be directed by the Commissioners of Customs and Excise and may be made through such persons acting on behalf of that person as may be so directed.
- (4) Information may be disclosed to a person under subsection (1) above whether or not the disclosure of the information has been requested by or on behalf of that person.]

*Status: Point in time view as at 01/01/2005.*

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### Textual Amendments

**F37** S. 27A inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, [Sch. 3 para. 4](#)

### Modifications etc. (not altering text)

- C213** Ss. 19-28 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 1\(b\)](#)  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192, reg. 15, Sch. 14 para. 1\(b\)](#)  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831, reg. 19\(1\)-\(4\), Sch. 15 para. 1\(a\)\(b\)](#)
- C214** Ss. 19-28 modified (6.4.1992) by [S.I.1992/711, regs. 1\(2\), 28\(3\)\(b\)\(5\)\(a\)](#)
- C215** Ss. 19-28 applied (with modifications) (29.11.1999) by [S.I. 1999/2001, reg. 24\(1\), Sch. 8 para. 1\(b\)](#)
- C216** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10 \(with art. 11\)](#)
- C217** S. 27A applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129, reg. 23\(3\)\(d\)](#); s. 27A applied (with modifications) (E.W.S.) (22.4.2005) by [S.I. 2005/928, reg. 4\(2\)-\(6\)](#)

## 28 Restrictions on disclosure of information. E+W

- (1) In this and the two following subsections—
- (a) “relevant information” means information obtained by a person under section 27(1) or furnished to any person [<sup>F38</sup>under section 27A above [<sup>F39</sup>, by virtue of section 43A(6) below]or] in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding subsection shall not apply to—
- (a) disclosure of information to the Commission, the Executive, [<sup>F40</sup> the Environment Agency, the Scottish Environment Protection Agency,] a government department or any enforcing authority;
  - (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;
  - (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to—
    - (i) an officer of a local authority who is authorised by that authority to receive it,
    - [<sup>F41</sup>(ii) an officer <sup>F42</sup>. . . of a water undertaker, sewerage undertaker, water authority or water development board who is authorised by that <sup>F43</sup>. . . undertaker, authority or board to receive it,]
    - <sup>F44</sup>(iii) . . . . .
    - (iv) a constable authorised by a chief officer of police to receive it;
  - (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;



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- (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2), or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2).
- [<sup>F45</sup>(f) any other disclosure of information by the recipient, if–
  - (i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
  - (ii) the information is not held by the authority on behalf of another person.]
- (4) In the preceding subsection any reference to the Commission, the Executive, [<sup>F46</sup>the Environment Agency, the Scottish Environment Protection Agency,] a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Commission, includes a reference to—
  - (a) a person performing any functions of the Commission or the Executive on its behalf by virtue of section 13(1)(a);
  - (b) an officer of a body which is so performing any such functions; and
  - (c) an adviser appointed in pursuance of section 13(1)(d).
- (5) A person to whom information is disclosed in pursuance of [<sup>F47</sup>any of paragraphs (a) to (e) of] subsection (3) above shall not use the information for a purpose other than—
  - (a) in a case falling within paragraph (a) of that subsection, a purpose of the Commission or of the Executive or [<sup>F48</sup>of the Environment Agency or]of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
  - (b) in the case of information given to an officer of a [<sup>F49</sup>body which is a local authority, <sup>F50</sup> . . . a water undertaker, a sewerage undertaker, a water authority, a river purification board or a water development board, the purposes of the body] in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;
  - (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.
- [<sup>F51</sup>(6) References in subsections (3) and (5) above to a local authority include . . . <sup>F52</sup> a joint authority established by Part IV of the Local Government Act 1985 [<sup>F53</sup>and the London Fire and Emergency Planning Authority].]
- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—
  - (a) for the purposes of his functions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2); or
  - (c) with the relevant consent.

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In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

(8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—

- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
- (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;

and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

[<sup>F54</sup>(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection].

[<sup>F55</sup>(9A) Subsection (7) above does not apply if—

- (a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
- (b) the information is not held by the authority on behalf of another person.]

[<sup>F56</sup>(10) The Broads Authority and every National Park authority shall be deemed to be local authorities for the purposes of this section.]

### Extent Information

**E3** This version of this provision extends to England and Wales only; separate versions have been created for Scotland only and for Northern Ireland (in so far as this provision extends there, see s. 84(1)).

### Textual Amendments

**F38** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 5**

**F39** Words in s. 28(1)(a) inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 105(2), 120**

**F40** Words in s. 28(3)(a) inserted (E.W.S.) (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 30(6)(a)** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**

**F41** S. 28(3)(c)(ii) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 46(a)** (with [ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 163, 189\(4\)–\(10\), 190, 193\(1\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))

**F42** Words in s. 28(3)(c)(ii) repealed (E.W.) (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 30\(6\)\(b\)\(i\)](#), **Sch. 24** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**

**F43** Word in s. 28(3)(c)(ii) repealed (E.W.) (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 30\(6\)\(b\)\(ii\)](#), **Sch. 24** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**

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- F44** S. 28(3)(c)(iii) repealed (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 30(6)(d), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F45** S. 28(3)(f) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(2)**
- F46** Words in s. 28(4) inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(e)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F47** Words in s. 28(5) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(3)**
- F48** Words in s. 28(5)(a) inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(f)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F49** Words substituted by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 25 para. 46(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F50** Words in s. 28(5)(b) repealed (E.W.) (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 30(6)(f)(ii), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F51** S. 28(6) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 para. 52**
- F52** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. 1**
- F53** Words in s. 28(6) added (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 23** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4**
- F54** S. 28(9) inserted by Employment Protection Act 1975 (c. 71), **Sch. 15 para. 9**
- F55** S. 28(9A) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(4)**
- F56** S. 28(10) substituted (E.W.) (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 12** (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2**

#### **Modifications etc. (not altering text)**

- C218** S. 28 applied by S.I. 1989/840, **arts. 2-10**  
 S. 28 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 28 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 28: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(e), 5** (with s. 3(5))  
 S. 28 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
 S. 28 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 28 restricted (15.11.2000) by S.I. 2000/2831, **reg. 23(1)**
- C219** S. 28 amended by S.I. 1982/1496, **reg. 10(1)**  
 S. 28 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(e)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C220** S. 28 amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 para. 13(f)**
- C221** S. 28 restricted (E.W.S.) (1.2.1993) by S.I. 1992/3217, **reg. 15**  
 S. 28 excluded (E.W.S.) (1.4.1999) by S.I. 1999/743, **reg. 21(5)**.
- C222** S. 28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C223** S. 28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C224** **Ss. 1-59, 80-82** applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C225** S. 28 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(e)(3)**
- C226** S. 28 applied (E.W.S.) by S.I. 2005/928, **art. 4(3)(b)**
- C227** S. 28 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(g)** (subject to (4)-(6)) (with art. 7)
- C228** S. 28(6) extended by S.I. 1985/1884, **art. 10, Sch. 3 para. 4**  
 s. 28 extended (31.1.1994) by S.I. 1993/3050, **art. 18(1)** (with art. 3).

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

C229 S. 28(7): Disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, Sch. 4 Pt. 1 para. 12

## 28 Restrictions on disclosure of information. **N.I.**

- (1) In this and the two following subsections—
- (a) “relevant information” means information obtained by a person under section 27(1) or furnished to any person [<sup>F111</sup>under section 27A above [<sup>F39</sup>, by virtue of section 43A(6) below]or] in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding subsection shall not apply to—
- (a) disclosure of information to the Commission, the Executive, a government department or any enforcing authority;
  - (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;
  - (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to—
    - (i) an officer of a local authority who is authorised by that authority to receive it,
    - [<sup>F112</sup>(ii) an officer of the National Rivers Authority or of a water undertaker, sewerage undertaker, water authority or water development board who is authorised by that Authority, undertaker, authority or board to receive it,]
    - (iii) an officer of a river purification board who is authorised by that board to receive it, or
    - (iv) a constable authorised by a chief officer of police to receive it;
  - (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
  - (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2), or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2).
  - [<sup>F113</sup>(f) any other disclosure of information by the recipient, if—
    - (i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
    - (ii) the information is not held by the authority on behalf of another person.]
- (4) In the preceding subsection any reference to the Commission, the Executive, a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Commission, includes a reference to—

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- (a) a person performing any functions of the Commission or the Executive on its behalf by virtue of section 13(1)(a);
  - (b) an officer of a body which is so performing any such functions; and
  - (c) an adviser appointed in pursuance of section 13(1)(d).
- (5) A person to whom information is disclosed in pursuance of [<sup>F114</sup>any of paragraphs (a) to (e) of] subsection (3) above shall not use the information for a purpose other than—
- (a) in a case falling within paragraph (a) of that subsection, a purpose of the Commission or of the Executive or of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
  - (b) in the case of information given to an officer of a [<sup>F115</sup>body which is a local authority, the National Rivers Authority, a water undertaker, a sewerage undertaker, a water authority, a river purification board or a water development board, the purposes of the body] in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;
  - (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.
- [<sup>F116</sup>(6) References in subsections (3) and (5) above to a local authority include . . . <sup>F117</sup> a joint authority established by Part IV of the Local Government Act 1985 [<sup>F118</sup>and the London Fire and Emergency Planning Authority].]
- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—
- (a) for the purposes of his functions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2); or
  - (c) with the relevant consent.
- In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.
- (8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—
- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
  - (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;
- and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

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[<sup>F119</sup>(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection].

[<sup>F120</sup>(9A) Subsection (7) above does not apply if–

- (a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
- (b) the information is not held by the authority on behalf of another person.]

[<sup>F121</sup>(10) For the purposes of this section the Broads Authority shall be treated as a local authority.]

#### Extent Information

**E6** This version of this provision applies to Northern Ireland (in so far as this provision extends there, see s. 84(1)(a)); separate versions of this provision have been created for England and Wales only and Scotland only

#### Textual Amendments

- F39** Words in s. 28(1)(a) inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 105(2), 120**
- F111** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 5**
- F112** S. 28(3)(c)(ii) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 46(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F113** S. 28(3)(f) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(2)**
- F114** Words in s. 28(5) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(3)**
- F115** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 46(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4), (10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F116** S. 28(6) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 para. 52**
- F117** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. 1**
- F118** Words in s. 28(6) added (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 23** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4**
- F119** S. 28(9) inserted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 9**
- F120** S. 28(9A) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(4)**
- F121** S. 28(10) added by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), s. 21, **Sch. 6 para. 13**

#### Modifications etc. (not altering text)

- C503** Ss. 1, 25, 26, 27, 28, 30, 33, 34, 59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2, 10**
- C504** S. 28 amended by S.I. 1982/1496, **reg. 10(1)**  
 S. 28 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(e)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))  
 S. 28 restricted (15.11.2000) by S.I. 2000/2831, **reg. 23(1)**
- C505** S. 28 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 para. 13(f)**

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- C506** Ss. 19-28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**
- C507** Ss. 19-28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C508** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C509** s. 28 applied (with modifications) (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)-(4)**
- C510** S. 28(6) extended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(l)**  
s. 28 extended (31.1.1994) by S.I. 1993/3050, **art. 18(1)** (with art. 3).
- C511** S. 28(7): Disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt. 1 para. 12**

## 28 Restrictions on disclosure of information. **S**

- (1) In this and the two following subsections—
- (a) “relevant information” means information obtained by a person under section 27(1) or furnished to any person [<sup>F122</sup>under section 27A above [<sup>F39</sup>, by virtue of section 43A(6) below] or] in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding subsection shall not apply to—
- (a) disclosure of information to the Commission, the Executive, [<sup>F123</sup>the Environment Agency, the Scottish Environment Protection Agency,] a government department or any enforcing authority;
  - (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;
  - (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to—
    - (i) an officer of a local authority who is authorised by that authority to receive it,
    - [<sup>F124</sup>(ii) an officer of a water undertaker, sewerage undertaker, [<sup>F125</sup>or Scottish Water] who is authorised by [<sup>F126</sup>that undertaker or, as the case may be, Scottish Water] to receive it;]
    - <sup>F127</sup>(iii) . . . . .
    - (iv) a constable authorised by a chief officer of police to receive it;
  - (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
  - (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2), or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2).
  - [<sup>F128</sup>(f) any other disclosure of information by the recipient, if—
    - (i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

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- (ii) the information is not held by the authority on behalf of another person.]
- (4) In the preceding subsection any reference to the Commission, the Executive, [<sup>F129</sup>the Environment Agency, the Scottish Environment Protection Agency,] a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Commission, includes a reference to—
- (a) a person performing any functions of the Commission or the Executive on its behalf by virtue of section 13(1)(a);
  - (b) an officer of a body which is so performing any such functions; and
  - (c) an adviser appointed in pursuance of section 13(1)(d).
- (5) A person to whom information is disclosed in pursuance of [<sup>F130</sup>any of paragraphs (a) to (e) of] subsection (3) above shall not use the information for a purpose other than—
- (a) in a case falling within paragraph (a) of that subsection, a purpose of the Commission or of the Executive or [<sup>F131</sup>of the Environment Agency or of the Scottish Environment Protection Agency or] of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
  - (b) [<sup>F132</sup>in the case of information given to an officer of a body which is a local authority, a water undertaker, [<sup>F133</sup>or a sewerage undertaker or to an officer of Scottish Water,] the purposes of the body [<sup>F134</sup>authority, undertaker or, as the case may be, Scottish Water] in connection] with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;
  - (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.
- [<sup>F135</sup>(6) References in subsections (3) and (5) above to a local authority include . . . [<sup>F136</sup>a joint authority established by Part IV of the Local Government Act 1985 [<sup>F137</sup>and the London Fire and Emergency Planning Authority].]
- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—
- (a) for the purposes of his functions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2); or
  - (c) with the relevant consent.
- In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.
- (8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately



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informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—

- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
- (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;

and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

[<sup>F138</sup>(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection].

[<sup>F139</sup>(9A) Subsection (7) above does not apply if—

- (a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
- (b) the information is not held by the authority on behalf of another person.]

[<sup>F140</sup>(10) For the purposes of this section the Broads Authority shall be treated as a local authority.]

### Extent Information

**E7** This version of this provision extends to Scotland only; separate versions of this provision have been created for England and Wales only and for Northern Ireland (in so far as this provision extends there, see s. 84(1))

### Textual Amendments

- F39** Words in s. 28(1)(a) inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 105(2), 120**
- F122** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 5**
- F123** Words in s. 28(3)(a) inserted (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 30(6)(a)** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**
- F124** S. 28(3)(c)(ii) substituted (S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 30(6)(c)** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**
- F125** Words in s. 28(3)(c)(ii) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#) art. 2, {[Sch. Pt. 1 para. 8\(a\)\(i\)](#)}
- F126** Words in s. 28(3)(c)(ii) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 2, **Sch. para. 8(a)(ii)**
- F127** S. 28(3)(c)(iii) repealed (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 30\(6\)\(d\)](#), **Sch. 24** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**
- F128** S. 28(3)(f) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(2)**
- F129** Words in s. 28(4) inserted (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 30(6)(e)** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**
- F130** Words in s. 28(5) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(3)**
- F131** Words in s. 28(5)(a) inserted (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 30(6)(f)(i)** (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186](#), **art. 2**

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- F132** Words in s. 28(5)(b) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(f)(iii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F133** Words in s. 28(5)(b) substituted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/ 1822) art. 2, {Sch. Pt. 1 para. 8(b)(i)}
- F134** Words in s. 28(5)(b) inserted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822) art. 2, {Sch. Pt. 1 para. 8(b)(ii)}
- F135** S. 28(6) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 para. 52**
- F136** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. 1**
- F137** Words in s. 28(6) added (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 23** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art.4**
- F138** S. 28(9) inserted by Employment Protection Act 1975 (c. 71), **Sch. 15 para. 9**
- F139** S. 28(9A) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(4)**
- F140** S. 28(10) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), s. 21, **Sch. 6 para. 13**

#### **Modifications etc. (not altering text)**

- C512** S. 28 applied by S.I. 1989/840, **arts. 2-10**  
 S. 28 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 28 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 28: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(e), 5** (with s. 3(5))  
 S. 28 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
 S. 28 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 28 restricted (15.11.2000) by S.I. 2000/2831, **reg. 23(1)**
- C513** S. 28 amended by S.I. 1982/1496, **reg. 10(1)**  
 S. 28 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(e)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C514** S. 28 restricted (E.W.S.) (1.2.1993) by S.I. 1992/3217, **reg. 15**  
 S. 28 excluded (E.W.S.) (1.4.1999) by S.I. 1999/743, **reg. 21(5)**.
- C515** Ss. 19-28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C516** Ss. 19-28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C517** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C518** S. 28 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(e)(3)**
- C519** S. 28 applied (E.W.S.) by S.I. 2005/928, **art. 4(3)(b)**
- C520** S. 28 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(g)** (subject to (4)-(6)) (with art. 7)
- C521** S. 28(6) extended by S.I. 1985/1884, **art. 10, Sch. 3 para. 4(l)**  
 s. 28 extended (31.1.1994) by S.I. 1993/3050, **art. 18(1)** (with art. 3).
- C522** S. 28(7): Disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt. 1 para. 12**

#### *Special provisions relating to agriculture*

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F57** Ss. 2(5), 29, 31, 32, 50(4)(5), 53(2)–(6) repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

## [<sup>F58</sup>30] **Agricultural health and safety regulations.**

- (1) Regulations under this section (in this Part referred to as “agricultural health and safety regulations”) may be made for any of the relevant agricultural purposes.
- (2) Agricultural health and safety regulations may be either regulations applying to Great Britain and made by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, or regulations applying to England and Wales only and made by the said Minister, or regulations applying to Scotland only and made by the Secretary of State.
- (3) Where health and safety regulations make provision for any purpose with respect to a matter that relates to (but not exclusively to) agricultural operations—
  - (a) provision for that purpose shall not be made with respect to that matter by agricultural health and safety regulations so as to have effect while the first-mentioned provision is in force except for the purpose of imposing requirements additional to those imposed by health and safety regulations, being additional requirements which in the opinion of the authority making the agricultural health and safety regulations are necessary or expedient in the special circumstances of agricultural operations; and
  - (b) in the event of any inconsistency between the first-mentioned provision and any provision made with respect to that matter by agricultural health and safety regulations, the first-mentioned provision shall prevail.
- (4) The provisions of section 15(2) to (10) and Schedule 3 shall have effect in relation to agricultural health and safety regulations as they have effect in relation to health and safety regulations subject to the following modifications, that is to say—
  - (a) references to the relevant statutory provisions or the existing statutory provisions shall be read as references to such of those provisions as relate to agriculture;
  - (b) in section 15(4) the references to the Commission shall be read as references to the appropriate Agriculture Minister;
  - (c) in section 15(6) and (10) and paragraph 23 of Schedule 3, the reference to health and safety regulations shall be read as a reference to agricultural health and safety regulations.
- (5) Without prejudice to the generality of subsection (1) above, agricultural health and safety regulations may, as regards agricultural licences under any of the relevant statutory provisions, make provision for requiring the authority having power to issue, renew, vary, transfer or revoke such licences to notify—
  - (a) any applicant for the issue, renewal, variation or transfer of such a licence of any proposed decision of the authority to refuse the application; or
  - (b) the holder of such a licence of any proposed decision of the authority to revoke the licence or to vary any term, condition or restriction on or subject to which the licence is held;

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and for enabling persons aggrieved by any such proposed decision to make representations to, or to a person appointed by, the relevant authority within the period and in the manner prescribed by the regulations.

- (6) In relation to any agricultural health and safety regulations made in pursuance of paragraph 2 of Schedule 3 as applied by this section, subsection (2) above shall have effect as if after the words “Great Britain” there were inserted the words “or the United Kingdom”.]

**Textual Amendments**

**F58** S. 30 repealed (E.W.) (S.) by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

**Modifications etc. (not altering text)**

**C230** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)

**C231** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))

**C232** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))

<sup>F59</sup>31, .....  
32.

**Textual Amendments**

**F59** Ss. 2(5), 29, 31, 32, 50(4)(5), 53(2)–(6) repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

*Provisions as to offences*

**33 Offences. E+W+S**

- (1) It is an offence for a person—
  - (a) to fail to discharge a duty to which he is subject by virtue of sections 2 to 7;
  - (b) to contravene section 8 or 9;
  - (c) to contravene any health and safety regulations <sup>F60</sup>. . . or any requirement or prohibition imposed under any such regulations (including any requirement or prohibition to which he is subject by virtue of the terms of or any condition or restriction attached to any licence, approval, exemption or other authority issued, given or granted under the regulations);
  - (d) to contravene any requirement imposed by or under regulations under section 14 or intentionally to obstruct any person in the exercise of his powers under that section;
  - (e) to contravene any requirement imposed by an inspector under section 20 or 25;
  - (f) to prevent or attempt to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of section 20(2) require an answer;

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- (g) to contravene any requirement or prohibition imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal);
  - (h) intentionally to obstruct an inspector in the exercise or performance of his powers or duties [<sup>F61</sup>or to obstruct a customs officer in the exercise of his powers under section 25A];
  - (i) to contravene any requirement imposed by a notice under section 27(1);
  - (j) to use or disclose any information in contravention of section 27(4) or 28;
  - (k) to make a statement which he knows to be false or recklessly to make a statement which is false where the statement is made—
    - (i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions; or
    - (ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person;
  - (l) intentionally to make a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, to make use of any such entry which he knows to be false;
  - (m) with intent to deceive, to [<sup>F62</sup>forge or] use a document issued or authorised to be issued under any of the relevant statutory provisions 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 calculated to deceive;
  - (n) falsely to pretend to be an inspector;
  - (o) to fail to comply with an order made by a court under section 42.
- [<sup>F63</sup>(1A) Subject to any provision made by virtue of section 15(6)(d), a person guilty of an offence under subsection (1)(a) above consisting of failing to discharge a duty to which he is subject by virtue of sections 2 to 6 shall be liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
  - (b) on conviction on indictment, to a fine.]
- (2) A person guilty of an offence under paragraph (d), (f), (h) or (n) of subsection (1) above, or of an offence under paragraph (e) of that subsection consisting of contravening a requirement imposed by an inspector under section 20, shall be liable on summary conviction to a fine not exceeding [<sup>F64</sup>level 5 on the standard scale]
- [<sup>F65</sup>(2A) A person guilty of an offence under subsection (1)(g) or (o) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding £20,000, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.]
- (3) Subject to any provision made by virtue of section 15(6)(d) [<sup>F66</sup>or (e)] or by virtue of paragraph 2(2) of Schedule 3, a person guilty of [<sup>F67</sup>an offence under subsection (1) above not falling within subsection (1A), (2) or (2A) above], or of an offence under any of the existing statutory provisions, being an offence for which no other penalty is specified, shall be liable—
- (a) on summary conviction, to a fine not exceeding £400;
  - (b) on conviction on indictment—

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- (i) if the offence is one to which this sub-paragraph applies, to imprisonment for a term not exceeding two years, or a fine, or both;
  - (ii) if the offence is not one to which the preceding sub-paragraph applies, to a fine.
- (4) Subsection (3)(b)(i) above applies to the following offences—
- (a) an offence consisting of contravening any of the relevant statutory provisions by doing otherwise than under the authority of a licence issued by the Executive . . . <sup>F60</sup> something for the doing of which such a licence is necessary under the relevant statutory provisions;
  - (b) an offence consisting of contravening a term of or a condition or restriction attached to any such licence as is mentioned in the preceding paragraph;
  - (c) an offence consisting of acquiring or attempting to acquire, possessing or using an explosive article or substance (within the meaning of any of the relevant statutory provisions) in contravention of any of the relevant statutory provisions;
  - <sup>F68</sup>(d) . . . . .
  - (e) an offence under subsection (1)(j) above.
- <sup>F69</sup>(5) . . . . .
- <sup>F70</sup>(6) . . . . .

#### Extent Information

- E4** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland (in so far as this provision extends there, see s. 84(1))

#### Textual Amendments

- F60** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F61** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 6**
- F62** Words repealed (E.W.N.I.) by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**
- F63** [S. 33\(1A\)](#) inserted (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), **s. 4(2)(6)**
- F64** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G** and (N.I.) by [S.I. 1984/703 \(N.I. 3\)](#) arts. 5, 6 and by [1995 c. 40, ss. 3, 7\(2\)](#), [Sch. 1 para. 3\(1\)](#), **Sch. 2 Pt. II** it is provided (S.) (1.4.1996) that s. 33(2) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding £400
- F65** [S. 33\(2A\)](#) inserted (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), **s. 4(3)(6)**
- F66** Words in [s. 33\(3\)](#) inserted (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), **s. 4(4)(a)(6)**
- F67** Words in [s. 33\(3\)](#) substituted (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), **S. 4(4)(b)(6)**
- F68** [S. 33\(4\)\(d\)](#) repealed (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), ss. 4(5)(6), 7(2), **Sch.2**
- F69** [S. 33\(5\)](#) repealed (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), ss. 4(5)(6), 7(2), **Sch.2**
- F70** [S. 33\(6\)](#) repealed by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**

#### Modifications etc. (not altering text)

- C233** [S. 33](#) applied by [S.I. 1989/840](#), **arts. 2, 10**
- [S. 33](#) extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), **reg. 10 S. 33** excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), **regs. 7, 9**
- [S. 33](#) applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), **reg. 15, Sch. 14 para. 1(b)**
- [S. 33](#) applied (with modifications) (1.7.1997) by [S.I. 1997/831](#), **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**

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- S. 33 applied (15.11.2000) by **S.I. 2000/2831, reg. 26(1)(a)**
- C234** S. 33 extended (with modifications) (12.4.1999) by **S.I. 1999/743, reg. 20(1)(d)(2)(3)** S. 33 applied (20.9.2001) by **S.I. 2001/2975, reg. 19(d)**
- S. 33 applied (E.W.S.) (24.7.2002) by **S.I. 2002/1689, reg. 14(1)(b)**
- S. 33 applied (16.5.2002) by **S.I. 2002/1166, reg. 31** (with art. 37)
- C235** S. 33 applied (with modifications) (19.11.1999) by **S.I. 1999/2892, reg. 16(1)**
- C236** S. 33 applied (with modifications) (29.11.1999) by **S.I. 1999/2001, reg. 24(1), Sch. 8 para. 1(b)**
- C237** S. 33 applied (11.7.2001) by **S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C238** S. 33 applied (with modifications) (E.W.S.) (3.5.2004) by **S.I. 2004/129, reg. 23(3)(e)**; s. 33 applied (E.W.S.) (22.4.2005) by **S.I. 2005/928, reg. 4(2)(3)(5)(6)**; s. 33 applied (2.4.2006) by **S.I. 2006/397, reg. 34(2)(d)**
- C239** S. 33(1)(c) restricted (12.4.1999) by **S.I. 1999/743, reg. 20(2)**
- S. 33(1)(c) excluded (16.5.2002) by **S.I. 2002/1166, reg. 31(4)** (with art. 37) S. 33(1)(c) modified (E.W.S.) (3.5.2004) by **S.I. 2004/129, reg. 23(4)**
- C240** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C241** S. 33(1)(e) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by **S.I. 2003/403, regs. 1(2), 23(2)(a)(3)**
- C242** S. 33(1)(e) applied (with modifications) (E.W.S.) (16.4.1996) by **S.I. 1996/772, reg. 17**; s. 33(1)(e) applied (with modifications) (9.6.2004) by **S.I. 2004/1309, reg. 17**
- C243** S. 33(1)(f) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by **S.I. 2003/403, regs. 1(2), 23(2)(a)(3)**
- C244** S. 33(1)(f) modified (6.4.1992) by **S.I. 1992/711, regs. 1(2), 28(3)(b)(5)(a)**
- C245** Ss. 33(1)(f) applied (9.1.1995) by **S.I. 1994/3260, reg. 17(3)(5)**
- C246** S. 33(1)(f): power to apply conferred (E.W.S.) (28.8.1995) by **1995 c. 15, ss. 2(4)(f), 5** (with s. 3(5))
- C247** S. 33(1)(f) applied (with modifications) (E.W.S.) (16.4.1996) by **S.I. 1996/772, reg. 17**; s. 33(1)(f) applied (with modifications) (9.6.2004) by **S.I. 2004/1309, reg. 17**
- C248** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C249** S. 33(1)(g) modified (6.4.1992) by **S.I. 1992/711, regs. 1(2), 28(3)(b)(5)(a)**
- C250** S. 33(1)(g) applied (9.1.1995) by **S.I. 1994/3260, reg. 17(3)(5)**
- C251** S. 33(1)(g): power to apply conferred (E.W.S.) (28.8.1995) by **1995 c. 15, ss. 2(4)(f), 5** (with s. 3(5))
- C252** S. 33(1)(g) applied (with modifications) (E.W.S.) (16.4.1996) by **S.I. 1996/772, reg. 17**; s. 33(1)(g) applied (with modifications) (9.6.2004) by **S.I. 2004/1309, reg. 17**
- C253** S. 33(1)(g): power to apply conferred (E.W.S.) (28.8.1995) by **1995 c. 15, ss. 2(4)(f), 5** (with s. 3(5))
- C254** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C255** S. 33(1)(h) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by **S.I. 2003/403, regs. 1(2), 23(2)(a)(3)**
- C256** S. 33(1)(h) modified (6.4.1992) by **S.I. 1992/711, regs. 1(2), 28(3)(b)(5)(a)**
- C257** Ss. 33(1)(h) applied (9.1.1995) by **S.I. 1994/3260, reg. 17(3)(5)**
- C258** S. 33(1)(h): power to apply conferred (E.W.S.) (28.8.1995) by **1995 c. 15, ss. 2(4)(f), 5** (with s. 3(5))
- C259** Ss. 33(1)(h) applied (with modifications) (E.W.S.) (16.4.1996) by **S.I. 1996/772, reg. 17**; s. 33(1)(h) applied (with modifications) (9.6.2004) by **S.I. 2004/1309, reg. 17**
- C260** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C261** S. 33(1)(i) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by **S.I. 2003/403, regs. 1(2), 23(2)(a)(3)**
- C262** S. 33(1)(i) modified (6.4.1992) by **S.I. 1992/711, regs. 1(2), 28(3)(b)(5)(a)**

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- C263** S. 33(1)(i): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C264** S. 33(1)(i) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**; s. 33(1)(i) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C265** S. 33(1)(j) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C266** S. 33(1)(j) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C267** S. 33(1)(j): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C268** S. 33(1)(k) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C269** S. 33(1)(k) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C270** S. 33(1)(l) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C271** S. 33(1)(l) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C272** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C273** S. 33(1)(m) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C274** S. 33(1)(m) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C275** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C276** S. 33(1)(n) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C277** S. 33(1)(n): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C278** S. 33(1)(n) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**; s. 33(1)(n) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C279** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C280** S. 33(1)(o) applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C281** Ss. 33(1)(o) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C282** S. 33(1)(o): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C283** S. 33(1)(o) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**; s. 33(1)(o) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C284** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C285** S. 33(2) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C286** Ss. 33(2) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C287** S. 33(2) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C288** S. 33(2) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C289** S. 33(2): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C290** S. 33(2A) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C291** S. 33(3) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C292** S. 33(2A): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C293** Ss. 33(2A) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C294** Ss. 33(2A) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C295** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C296** S. 33(3) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**



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- C297** S. 33(3) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C298** Ss. 33(3) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C299** S. 33(3): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C300** Ss. 33(3) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C301** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C302** S. 33(4) applied (with modifications) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C303** S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C304** S. 33(4): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f), 5** (with s. 3(5))
- C305** Ss. 33(4) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C306** S. 33(4)(e) modified (6.4.2002) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**

### 33 Offences. **N.I.**

- (1) It is an offence for a person—
- (a) to fail to discharge a duty to which he is subject by virtue of sections 2 to 7;
  - (b) to contravene section 8 or 9;
  - (c) to contravene any health and safety regulations <sup>F141</sup> . . . or any requirement or prohibition imposed under any such regulations (including any requirement or prohibition to which he is subject by virtue of the terms of or any condition or restriction attached to any licence, approval, exemption or other authority issued, given or granted under the regulations);
  - (d) to contravene any requirement imposed by or under regulations under section 14 or intentionally to obstruct any person in the exercise of his powers under that section;
  - (e) to contravene any requirement imposed by an inspector under section 20 or 25;
  - (f) to prevent or attempt to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of section 20(2) require an answer;
  - (g) to contravene any requirement or prohibition imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal);
  - (h) intentionally to obstruct an inspector in the exercise or performance of his powers or duties [<sup>F142</sup> or to obstruct a customs officer in the exercise of his powers under section 25A];
  - (i) to contravene any requirement imposed by a notice under section 27(1);
  - (j) to use or disclose any information in contravention of section 27(4) or 28;
  - (k) to make a statement which he knows to be false or recklessly to make a statement which is false where the statement is made—
    - (i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions; or
    - (ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person;
  - (l) intentionally to make a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, to make use of any such entry which he knows to be false;

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- (m) with intent to deceive, to [<sup>F143</sup>forge or] use a document issued or authorised to be issued under any of the relevant statutory provisions 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 calculated to deceive;
  - (n) falsely to pretend to be an inspector;
  - (o) to fail to comply with an order made by a court under section 42.
- (2) A person guilty of an offence under paragraph (d), (f), (h) or (n) of subsection (1) above, or of an offence under paragraph (e) of that subsection consisting of contravening a requirement imposed by an inspector under section 20, shall be liable on summary conviction to a fine not exceeding [<sup>F144</sup>level 5 on the standard scale]
- (3) Subject to any provision made by virtue of section 15(6)(d) or by virtue of paragraph 2(2) of Schedule 3, a person guilty of an offence under any paragraph of subsection (1) above not mentioned in the preceding subsection, or of an offence under subsection (1) (e) above not falling within the preceding subsection, or of an offence under any of the existing statutory provisions, being an offence for which no other penalty is specified, shall be liable—
- (a) on summary conviction, to a fine not exceeding £400;
  - (b) on conviction on indictment—
    - (i) if the offence is one to which this sub-paragraph applies, to imprisonment for a term not exceeding two years, or a fine, or both;
    - (ii) if the offence is not one to which the preceding sub-paragraph applies, to a fine.
- (4) Subsection (3)(b)(i) above applies to the following offences—
- (a) an offence consisting of contravening any of the relevant statutory provisions by doing otherwise than under the authority of a licence issued by the Executive . . . <sup>F141</sup> something for the doing of which such a licence is necessary under the relevant statutory provisions;
  - (b) an offence consisting of contravening a term of or a condition or restriction attached to any such licence as is mentioned in the preceding paragraph;
  - (c) an offence consisting of acquiring or attempting to acquire, possessing or using an explosive article or substance (within the meaning of any of the relevant statutory provisions) in contravention of any of the relevant statutory provisions;
  - (d) an offence under subsection (1)(g) above consisting of contravening a requirement or prohibition imposed by a prohibition notice;
  - (e) an offence under subsection (1)(j) above.
- (5) Where a person is convicted of an offence under subsection (1)(g) or (o) above, then, if the contravention in respect of which he was convicted is continued after the conviction he shall (subject to section 42(3)) be guilty of further offence and [<sup>F145</sup>liable on summary conviction to a fine not exceeding £100] for each day on which the contravention is so continued.

<sup>F146</sup>(6) .....

#### Extent Information

**E8** This version of this provision applies to Northern Ireland (in so far as this provision extends there, see s. 84(1)); a separate version has been created for England, Wales and Scotland only.

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### Textual Amendments

- F141** Words repealed by **Employment Protection Act 1975** (c. 71), **Sch. 18**
- F142** Words inserted by **Consumer Protection Act 1987** (c. 43, SIF 109:1), s. 36, **Sch. 3 para. 6**
- F143** Words repealed (E.W.N.I.) by **Forgery and Counterfeiting Act 1981** (c. 45, SIF 39:7), s. 30, **Sch. Pt. I**
- F144** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982** (c. 48, SIF 39:1), s. 46 and (S.) **Criminal Procedure (Scotland) Act 1975** (c. 21, SIF 39:1), s. 289G and (N.I.) by S.I. 1984/703 (N.I. 3) arts. 5, 6
- F145** Words substituted by **Criminal Law Act 1977** (c. 45), ss. 15(1), 30, **Sch. 1 para. 21** and **Criminal Procedure (Scotland) Act 1975** (c. 21), **Sch. 7A** item 17
- F146** S. 33(6) repealed by **Forgery and Counterfeiting Act 1981** (c. 45, SIF 39:7), s. 30, **Sch. Pt. I**

### Modifications etc. (not altering text)

- C523** S. 33 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**
- C524** S. 33 applied (with modifications) (1.7.1997) by S.I. 1997/831, reg. 19(1)-(4), **Sch. 15 para. 1(a)(b)**
- C525** S. 33 applied by S.I. 1989/840, **arts. 2, 10**
- C526** S. 33 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(2)(3)**; S. 33 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C527** S. 33 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**  
S. 33 applied (20.9.2001) by S.I. 2001/2975, reg. 19(d)
- C528** Ss. 33-35 applied (with modifications) (29.11.1999) by S.I. 1999/2001, reg. 24(1), **Sch. 8 para. 1(b)**
- C529** S. 33 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C530** Ss. 33 applied (20.9.2001) by S.I. 2001/2975, **reg. 19(d)**;  
Ss. 33 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, reg. 14(1)(b); s. 33 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37); s. 33 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C531** S. 33(1)(c) restricted (1.4.1999) by S.I. 1999/743, **reg. 20(2)**  
S. 33(1)(c) excluded (16.5.2002) by S.I. 2002/1166, **reg. 31(4)** (with art. 37)
- C532** S. 33(1)(e) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C533** S. 33(1)(e) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C534** S. 33(1)(f) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C535** S. 33(1)(f) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C536** S. 33(1)(g) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C537** S. 33(1)(g) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C538** S. 33(1)(h) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C539** S. 33(1)(i) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C540** S. 33(1)(j) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C541** S. 33(1)(k) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C542** S. 33(1)(m) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C543** S. 33(1)(n) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C544** S. 33(1)(o) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C545** S. 33(2) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C546** S. 33(2) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C547** S. 33(3) applied (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C548** S. 33(3) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**
- C549** S. 33(4)(e) modified (6.4.1992) by S.I. 1992/711, **reg. 28(3)(b)(5)(a)**

## 34 Extension of time for bringing summary proceedings.

(1) Where—

- (a) a special report on any matter to which section 14 of this Act applies is made by virtue of subsection (2)(a) of that section; or

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- (b) a report is made by the person holding an inquiry into any such matter by virtue of subsection (2)(b) of that section; or
  - (c) a coroner’s inquest is held touching the death of any person whose death may have been caused by an accident which happened while he was at work or by a disease which he contracted or probably contracted at work or by any accident, act or omission which occurred in connection with the work of any person whatsoever; or
  - (d) a public inquiry into any death that may have been so caused is held under [<sup>F71</sup>the <sup>M7</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976], and it appears from the report or, in a case falling within paragraph (c) or (d) above, from the proceedings at the inquest or inquiry, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the report, inquest or inquiry, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the making of the report or, in a case falling within paragraph (c) or (d) above, within three months of the conclusion of the inquest or inquiry.
- (2) Where an offence under any of the relevant statutory provisions is committed by reason of a failure to do something at or within a time fixed by or under any of those provisions, the offence shall be deemed to continue until that thing is done.
- (3) Summary proceedings for an offence to which this subsection applies may be commenced at any time within six months from the date on which there comes to the knowledge of a responsible enforcing authority evidence sufficient in the opinion of that authority to justify a prosecution for that offence; and for the purposes of this subsection—
- (a) a certificate of an enforcing authority stating that such evidence came to its knowledge on a specified date shall be conclusive evidence of that fact; and
  - (b) a document purporting to be such a certificate and to be signed by or on behalf of the enforcing authority in question shall be presumed to be such a certificate unless the contrary is proved.
- (4) The preceding subsection applies to any offence under any of the relevant statutory provisions which a person commits by virtue of any provision or requirement to which he is subject as the designer, manufacturer, importer or supplier of any thing; and in that subsection “responsible enforcing authority” means an enforcing authority within whose field of responsibility the offence in question lies, whether by virtue of section 35 or otherwise.
- (5) In the application of subsection (3) above to Scotland—
- (a) for the words from “there comes” to “that offence” there shall be substituted the words “evidence, sufficient in the opinion of the enforcing authority to justify a report to the Lord Advocate with a view to consideration of the question of prosecution, comes to the knowledge of the authority”;
  - (b) at the end of paragraph (b) there shall be added the words “and
  - (c) section [<sup>F72</sup>331(3) of the <sup>M8</sup>Criminal Procedure (Scotland) Act 1975] (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.”
- [<sup>F73</sup>(6) In the application of subsection (4) above to Scotland, after the words “applies to” there shall be inserted the words “any offence under section 33(1)(c) above where the health and safety regulations concerned were made for the general purpose mentioned in section 18(1) of the Gas Act 1986 and”.]

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### Textual Amendments

- F71** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)  
**F72** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), Sch. 9 para. 51](#)  
**F73** S. 34(6) inserted by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\), Sch. 7 para. 18](#)

### Modifications etc. (not altering text)

- C307** S. 34 applied by [S.I. 1989/840, arts. 2-10](#)  
 S. 34 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)  
 S. 34 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10](#)  
 S. 34 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192, reg. 15, Sch. 14 para. 1\(b\)](#)  
 S. 34 applied (with modifications) (1.7.1997) by [S.I. 1997/831, reg. 19\(1\)-\(4\), Sch. 15 para. 1\(a\)\(b\)](#)  
 S. 34 applied (15.11.2000) by [S.I. 2000/2831, reg. 26\(1\)\(a\)](#)
- C308** Ss. 33-35 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 1\(b\)](#)
- C309** S. 34 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 3\(e\)\(i\)](#)
- C310** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743, reg. 20\(1\)\(d\), \(2\)\(3\)](#)
- C311** Ss. 33-42 applied (with modifications) (19.11.1999) by [S.I. 1999/2892, reg. 16\(1\)](#)  
 Ss. 33-42 applied (20.9.2001) by [S.I. 2001/2975, reg. 19\(d\)](#)
- C312** Ss. 34 applied (with modifications) (29.11.1999) by [S.I. 1999/2001, reg. 24\(1\), Sch. 8 para. 1\(b\)](#)  
 S. 34 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689, reg. 14\(1\)\(b\)](#)  
 S. 34 applied (16.5.2002) by [S.I. 2002/1166, reg. 31](#) (with art. 37)
- C313** [S. 34](#) applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with art. 11)
- C314** S. 34 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129, reg. 23\(3\)\(e\)](#)  
 S. 34 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928, reg. 4\(2\)\(3\)\(5\)\(6\)](#)  
 S. 34 applied (2.4.2006) by [S.I. 2006/397, reg. 34\(3\)\(d\)](#)
- C315** S. 34(1)(c) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C316** S. 34(1)(d) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C317** S. 34(2) applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#)
- C318** S. 34(2)-(6): power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(g\), 5](#) (with s. 3(5))
- C319** S. 34 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)
- C320** S. 34(2)-(5) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C321** S. 34(3) applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#)
- C322** S. 34(3)(4)(5) modified (6.4.1992) by [S.I. 1992/711, regs. 1\(2\), 28\(3\)\(b\)\(5\)\(a\)](#)  
 S. 34(3)(4)(5) applied (with modifications) (18.7.1995) by [S.I. 1995/1629, reg. 30\(3\)\(b\)\(5\)](#)
- C323** S. 34(3) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)
- C324** S. 34(3) applied (with modifications) (E.W.S.) (9.1.1995) by [S.I. 1994/3260, reg. 17\(3\)](#)
- C325** S. 34(2)-(5) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C326** S. 34(4) applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#)
- C327** S. 34(4) applied (with modifications) (9.1.1995) by [S.I. 1994/3260, reg. 17\(3\)\(5\)](#)
- C328** S. 34(4) modified (6.4.1992) by [S.I. 1992/711, regs. 1\(2\), 28\(3\)\(b\)\(5\)\(a\)](#)  
 S. 34(4) applied (with modifications) (18.7.1995) by [S.I. 1995/1629, reg. 30\(3\)\(b\)\(5\)](#)
- C329** S. 34(4) applied (with modifications) (9.1.1995) by [S.I. 1994/3260, reg. 17\(3\)\(5\)](#)
- C330** S. 34(4) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)

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- C331** S. 34(2)-(5) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\)](#), [art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with [art. 7](#))
- C332** S. 34(5) applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), [reg. 17](#)
- C333** S. 34(5) modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), [28\(3\)\(b\)\(5\)\(a\)](#)  
 S. 34(5) applied (with modifications) (18.7.1995) by [S.I. 1995/1629](#), [reg. 30\(3\)\(b\)\(5\)](#)
- C334** S. 34(5) applied (with modifications) (9.1.1995) by [S.I. 1994/3260](#), [reg. 17\(3\)\(5\)](#)
- C335** S. 34(5) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)
- C336** S. 34(2)-(5) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\)](#), [art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with [art. 7](#))
- C337** S. 34(6) applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), [reg. 17](#)
- C338** S. 34(6) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)

#### Marginal Citations

- M7** 1976 c. 14.  
**M8** 1975 c. 21.

## 35 Venue.

An offence under any of the relevant statutory provisions committed in connection with any plant or substance may, if necessary for the purpose of bringing the offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for the offence, be treated as having been committed at the place where that plant or substance is for the time being.

#### Modifications etc. (not altering text)

- C339** S. 35 applied by [S.I. 1989/840](#), [arts. 2-10](#)  
 S. 35 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), [regs. 7, 9](#)  
 S. 35 applied (with modifications) (E.W.S.) (9.1.1995) by [S.I. 1994/3260](#), [reg. 17\(3\)\(5\)](#)  
 S. 35: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), [ss. 2\(4\)\(a\)](#), 5 (with s. 3(5))  
 S. 35 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), [reg. 15](#), [Sch. 14 para. 1\(b\)](#) **S. 35** applied (with modifications) (1.7.1997) by [S.I. 1997/831](#), [reg. 19\(1\)-\(4\)](#), [Sch. 15 para. 1\(a\)\(b\)](#)  
 S. 35 applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)
- C340** Ss. 35 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), [reg. 28](#), [Sch. 6 para. 1\(b\)](#)
- C341** Ss. 35-39 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), [28\(3\)\(b\)\(5\)\(a\)](#)
- C342** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743](#), [reg. 20\(1\)](#), (2)(3)
- C343** Ss. 33-42 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), [reg. 16\(1\)](#)  
 Ss. 33-42 applied (20.9.2001) by [S.I. 2001/2975](#), [reg. 19\(d\)](#)
- C344** Ss. 33-35 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), [reg. 24\(1\)](#), [Sch. 8 para. 1\(b\)](#)  
 Ss. 33-42 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(b\)](#)  
 Ss. 33-42 applied (16.5.2002) by [S.I. 2002/1166](#), [reg. 31](#) (with [art. 37](#))
- C345** Ss. 1-59, 80-82 applied (E.W.S.) (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), [5\(1\)\(2\)](#), [6\(1\)](#), [7\(1\)](#), [8\(1\)](#), [10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C346** S. 35 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by [S.I. 2003/403](#), [regs. 1\(2\)](#), [23\(2\)\(a\)\(3\)](#)
- C347** S. 35 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(e\)](#); s. 35 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928](#) {[reg. 4\(2\)\(3\)\(5\)\(6\)](#)}; s. 35 applied (2.4.2006) by [S.I. 2006/397](#), {[reg. 34\(3\)\(d\)](#)}

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- C348** S. 35 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\)](#), [art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C349** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C350** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by [The Major Accident Off-Site Emergency Plan \(Management of Waste from Extractive Industries\)\(England and Wales\) Regulations 2009 \(S.I. 2009/1927\)](#), {reg. 9(1)}
- C351** S. 35 applied (with modifications) (E.W.S.) (6.4.2010) by [The Rail Vehicle Accessibility \(Non-Interoperable Rail System\) Regulations 2010 \(S.I. 2010/432\)](#), [reg. 6\(2\)\(3\)\(g\)](#)
- C352** Ss. 33-35 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\)](#), [regs. 1, 18, 37\(1\)](#), {Sch. 4 paras. 1, 2}

### 36 Offences due to fault of other person.

- (1) Where the commission by any person of an offence under any of the relevant statutory provisions is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (2) Where there would be or have been the commission of an offence under section 33 by the Crown but for the circumstance that that section does not bind the Crown, and that fact is due to the act or default of a person other than the Crown, that person shall be guilty of the offence which, but for that circumstance, the Crown would be committing or would have committed, and may be charged with and convicted of that offence accordingly.
- (3) The preceding provisions of this section are subject to any provision made by virtue of section 15(6).

#### Modifications etc. (not altering text)

- C353** S. 36 applied by [S.I. 1989/840](#), [arts. 2-10](#)  
 S. 36 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), [regs. 7, 9](#)  
 S. 36 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), [reg. 10 S. 36](#) applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)
- C354** S. 36 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), 28(3)(b)(5)(a)
- C355** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743](#), [reg. 20\(1\)](#), (2)(3)
- C356** Ss. 33-42 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), [reg. 16\(1\)](#)  
 Ss. 33-42 applied (20.9.2001) by [S.I. 2001/2975](#), [reg. 19\(d\)](#)
- C357** S. 36 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))  
 S. 36 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(b\)](#)  
 S. 36 applied (16.5.2002) by [S.I. 2002/1166](#), [reg. 31](#) (with art. 37)
- C358** S. 36 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by [S.I. 2003/403](#), [regs. 1\(2\)](#), [23\(2\)\(a\)\(3\)](#)
- C359** S. 36 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(e\)](#); s. 36 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), [reg. 4\(2\)\(3\)\(5\)\(6\)](#); s. 36 applied (2.4.2006) by [S.I. 2006/397](#), [reg. 34](#)

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*Changes to legislation: Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- C360** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C361** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries)(England and Wales) Regulations 2009 (S.I. 2009/1927), {reg. 9(1)}
- C362** S. 36(1)(2) applied (with modifications) (1.1.1993) by S.I.1992/3073, reg. 28, **Sch. 6 para. 1(c)**
- C363** Ss. 18(6)(7)(b), 19-22, 23(1)(2)(5), 24-26, 33(1)(e)-(h)(o)(2)(2A)(3)(4)(e), 34(3)-(5), 35, 36(1)(2), 37-39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C364** S. 36(1): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(h), 5** (with s. 3(5))
- C365** S. 36(1) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C366** Ss. 36(1)(2), 37 applied (with modifications) (1.7.1997) by S.I. 1997/831, reg. 19(1)-(4), **Sch. 15 para. 1(a)(c)**
- C367** S. 36(1) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C368** S. 36(1) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C369** S. 36(1)(2) applied (with modifications) (E.W.S.) (6.4.2010) by The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), **reg. 6(2)(3)(g)**
- C370** S. 36(1)(2) applied (with modifications) (E.W.S.) (6.4.2010) by The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), regs. 1(2), **38(2)(3)(g)**
- C371** S. 36(1)(2) applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}
- C372** S. 36 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C373** S. 36(2) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)

### 37 Offences by bodies corporate.

- (1) Where an offence under any of the relevant statutory provisions 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, the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### Modifications etc. (not altering text)

- C374** S. 37 applied by S.I. 1989/840, **arts. 2-10**
- S. 37 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**
- S. 37 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**
- Ss. 18(6)(7)(b), 19-22, 23(1)(2)(5), 24-26, 33(1)(e)-(h)(o)(2)(2A)(3)(4)(e), 34(3)-(5), 35, 36(1)(2), 37-39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- S. 37: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(h), 5** (with s. 3(5))
- Ss. 18-27, 33(1)(e)-(i)(n)(o)(2)-(4), 34(2)-(6), 36(1), 37-42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**



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- Ss. 16-26, 33-42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C375** S. 37 applied by S.I. 1990/556, **reg. 5(2)**
- C376** S. 37 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(c)**  
Ss. 36(1)(2), 37 applied (with modifications) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(c)**
- C377** Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C378** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1), (2)(3)**
- C379** Ss. 33-42 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C380** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C381** Ss. 33-42 applied (20.9.2001) by S.I. 2001/2975, **reg. 19(d)**  
Ss. 33-42 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(b)**  
Ss. 33-42 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C382** S. 37 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C383** S. 37 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 37 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 37 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; ss. 37 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C384** Ss. 37-41 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C385** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C386** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries)(England and Wales) Regulations 2009 (S.I. 2009/1927), {reg. 9(1)}
- C387** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), **reg. 6(2)(3)(g)**
- C388** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), **regs. 1(2), 38(2)(3)(g)**
- C389** S. 37 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}

## 38 Restrictions on institution of proceedings in England and Wales.

Proceedings for an offence under any of the relevant statutory provisions shall not, in England and Wales, be instituted except by an inspector or <sup>F74</sup>the Environment Agency or]by or with the consent of the Director of Public Prosecutions.

### Textual Amendments

- F74** Words in s. 38 inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(7)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

### Modifications etc. (not altering text)

- C390** S. 38 applied by S.I. 1989/840, **arts. 2-10**  
S. 38 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
S. 38 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
Ss. 18(6)(7)(b), 19-22, 23(1)(2)(5), 24-26, 33(1)(e)-(h)(o)(2)(2A)(3)(4)(e), 34(3)-(5), 35, 36(1)(2), 37-39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**

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*Changes to legislation: Health and Safety at Work etc. Act 1974, Part I is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- S. 38: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(i), 5** (with s. 3(5))  
 Ss. 18-27, 33(1)(e)-(i)(n)(o)(2)-(4), 34(2)-(6), 36(1), 37-42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by **S.I. 1996/772, reg. 17**  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by **S.I. 1996/192, reg. 15, Sch. 14 para. 1(b)**  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (1.7.1997) by **S.I. 1997/831, reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 Ss. 16-26, 33-42, 47 applied (15.11.2000) by **S.I. 2000/2831, reg. 26(1)(a)**  
**C391** S. 38 applied (with modifications) (1.1.1993) by **S.I. 1992/3073, reg. 28, Sch. 6 para. 1(b)**  
 S. 38 applied (15.2.1999) by 1998 c. 17, **s. 20(3)**, (with s. 9(1)(2), Sch. 3 para. 5(1)); **S.I. 1999/161, art. 2(1)(2)**  
**C392** Ss. 35-39 modified (6.4.1992) by **S.I. 1992/711, regs. 1(2), 28(3)(b)(5)(a)**  
**C393** Ss. 33-42 applied (with modifications) (1.4.1999) by **S.I. 1999/743, reg. 20(1)(d), (2)(3)**  
**C394** Ss. 33-42 applied (with modifications) (19.11.1999) by **S.I. 1999/2892, reg. 16(1)**  
 Ss. 33-42 applied (20.9.2001) by **S.I. 2001/2975, reg. 19(d)**  
**C395** S. 38 applied (with modifications) (29.11.1999) by **S.I. 1999/2001, reg. 24(1), Sch. 8 para. 1(b)**  
**C396** Ss. 1-59, 80-82 applied (11.7.2001) by **S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by **S.I. 2009/1750, art. 2(2)(4)**)  
 Ss. 33-42 applied (E.W.S.) (24.7.2002) by **S.I. 2002/1689, reg. 14(1)(b)**  
 Ss. 33-42 applied (16.5.2002) by **S.I. 2002/1166, reg. 31** (with art. 37)  
**C397** S. 38 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by **S.I. 2003/403, regs. 1(2), 23(2)(a)(3)**  
**C398** S. 38 applied (with modifications) (E.W.S.) (3.5.2004) by **S.I. 2004/129, reg. 23(3)(e)**; s. 38 applied (with modifications) (E.W.S.) (9.6.2004) by **S.I. 2004/1309, reg. 17**; s. 38 applied (E.W.S.) (22.4.2005) by **S.I. 2005/928, reg. 4(2)(3)(5)(6)**; s. 38 applied (2.4.2006) by **S.I. 2006/397, reg. 34(3)(d)**  
**C399** Ss. 37-41 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)  
**C400** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by **The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B** (as inserted by **S.I. 2009/1750, art. 2(3)**)  
**C401** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by **The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries)(England and Wales) Regulations 2009 (S.I. 2009/1927), {reg. 9(1)}**  
**C402** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by **The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), reg. 6(2)(3)(g)**  
**C403** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by **The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), regs. 1(2), 38(2)(3)(g)**  
**C404** S. 38 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by **The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), regs. 1, 18, 37(1), {Sch. 4 paras. 1, 2}**

### 39 Prosecutions by inspectors.

- (1) An inspector, if authorised in that behalf by the enforcing authority which appointed him, may, although not of counsel or a solicitor, prosecute before a magistrates' court proceedings for an offence under any of the relevant statutory provisions.
- (2) This section shall not apply to Scotland.

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### Modifications etc. (not altering text)

- C405** S. 39 applied by [S.I. 1989/840, arts. 2-10](#)
- S. 39 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)
  - S. 39 extended (E.W.) (1.10.1996) by [S.I. 1996/1513, reg. 10](#)
  - S. 39 applied (with modifications) (9.1.1995) by [S.I. 1994/3260, reg. 17\(3\)\(5\)](#)
  - S. 39: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(i\), 5](#) (with s. 3(5))
  - S. 39 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17 S. 39](#) applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192, reg. 15, Sch. 14 para. 1\(b\)](#)
  - S. 39 applied (with modifications) (1.7.1997) by [S.I. 1997/831, reg. 19\(1\)-\(4\), Sch. 15 para. 1\(a\)\(b\)](#)
  - S. 39 applied (15.11.2000) by [S.I. 2000/2831, reg. 26\(1\)\(a\)](#)
- C406** S. 39 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 1\(b\)](#)
- C407** Ss. 35-39 modified (6.4.1992) by [S.I. 1992/711, regs. 1\(2\), 28\(3\)\(b\)\(5\)\(a\)](#)
- C408** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743, reg. 20\(1\), \(2\)\(3\)](#)
- C409** Ss. 33-42 applied (with modifications) (19.11.1999) by [S.I. 1999/2892, reg. 16\(1\)](#)
- Ss. 33-42 applied (20.9.2001) by [S.I. 2001/2975, reg. 19\(d\)](#)
- C410** S. 39 applied (with modifications) (29.11.1999) by [S.I. 1999/2001, reg. 24\(1\), Sch. 8 para. 1\(b\)](#)
- C411** S. 39 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with art. 11) (as amended by [S.I. 2009/1750, art. 2\(2\)\(4\)](#))
- S. 39 applied (E.W.) (24.7.2002) by [S.I. 2002/1689, reg. 14\(1\)\(b\)](#)
  - S. 39 applied (16.5.2002) by [S.I. 2002/1166, reg. 31](#) (with art. 37)
- C412** S. 39 applied (with modifications) (E.W.) (3.5.2004) by [S.I. 2004/129, reg. 23\(3\)\(e\)](#); ss. 39 applied (with modifications) (E.W.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#); s. 39 applied (E.W.) (22.4.2005) by [S.I. 2005/928, reg. 4\(2\)\(3\)\(5\)\(6\)](#); s. 39 applied (E.W.) (2.4.2006) by [S.I. 2006/397, reg. 34\(3\)\(d\)](#)
- C413** Ss. 37-41 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C414** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\), arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750, art. 2\(3\)](#))
- C415** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by [The Major Accident Off-Site Emergency Plan \(Management of Waste from Extractive Industries\)\(England and Wales\) Regulations 2009 \(S.I. 2009/1927\), {reg. 9\(1\)}](#)
- C416** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by [The Rail Vehicle Accessibility \(Non-Interoperable Rail System\) Regulations 2010 \(S.I. 2010/432\), reg. 6\(2\)\(3\)\(g\)](#)
- C417** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by [The Train Driving Licences and Certificates Regulations 2010 \(S.I. 2010/724\), regs. 1\(2\), 38\(2\)\(3\)\(g\)](#)
- C418** S. 39 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\), regs. 1, 18, 37\(1\), {Sch. 4 paras. 1, 2}](#)

## 40 Onus of proving limits of what is practicable etc.

In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

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#### **Modifications etc. (not altering text)**

- C419** S. 40 applied by [S.I. 1989/840, arts. 2-10](#)  
 S. 40 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)  
 S. 40: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(j\), 5](#) (with s. 3(5))  
 S. 40 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)  
 S. 40 applied (15.11.2000) by [S.I. 2000/2831, reg. 26\(1\)\(a\)](#)
- C420** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743, reg. 20\(1\), \(2\)\(3\)](#)
- C421** Ss. 33-42 applied (with modifications) (19.11.1999) by [S.I. 1999/2892, reg. 16\(1\)](#)  
 Ss. 33-42 applied (20.9.2001) by [S.I. 2001/2975, reg. 19\(d\)](#)
- C422** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750, art. 2\(2\)\(4\)](#))  
 Ss. 33-42 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689, reg. 14\(1\)\(b\)](#)  
 Ss. 33-42 applied (16.5.2002) by [S.I. 2002/1166, reg. 31](#) (with [art. 37](#))
- C423** S. 40 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129, reg. 23\(3\)\(e\)](#); s. 40 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#); s. 40 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928, reg. 4\(2\)\(3\)\(5\)\(6\)](#); s. 40 applied (E.W.S.) (2.4.2006) by [S.I. 2006/397, reg. 34\(3\)\(c\)](#)
- C424** Ss. 37-41 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with [art. 1\(1\)](#) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to [\(4\)-\(6\)](#)) (with [art. 7](#))
- C425** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\), arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750, art. 2\(3\)](#))
- C426** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with [reg. 3](#) of the amending S.I.) by [The Major Accident Off-Site Emergency Plan \(Management of Waste from Extractive Industries\)\(England and Wales\) Regulations 2009 \(S.I. 2009/1927\), {reg. 9\(1\)}](#)
- C427** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by [The Rail Vehicle Accessibility \(Non-Interoperable Rail System\) Regulations 2010 \(S.I. 2010/432\), reg. 6\(2\)\(3\)\(g\)](#)
- C428** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by [The Train Driving Licences and Certificates Regulations 2010 \(S.I. 2010/724\), regs. 1\(2\), 38\(2\)\(3\)\(g\)](#)

## **41 Evidence.**

- (1) Where an entry is required by any of the relevant statutory provisions to be made in any register or other record, the entry, if made, shall, as against the person by or on whose behalf it was made, be admissible as evidence or in Scotland sufficient evidence of the facts stated therein.
- (2) Where an entry which is so required to be so made with respect to the observance of any of the relevant statutory provisions has not been made, that fact shall be admissible as evidence or in Scotland sufficient evidence that that provision has not been observed.

#### **Modifications etc. (not altering text)**

- C429** S. 41 applied by [S.I. 1989/840, arts. 2-10](#)  
 S. 41: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(j\), 5](#) (with s. 3(5))  
 S. 41 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)  
 S. 41 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192, reg. 15, Sch. 14 para. 1\(b\)](#)  
 S. 41 applied (with modifications) (1.7.1997) by [S.I. 1997/831, reg. 19\(1\)-\(4\), Sch. 15 para. 1\(a\)\(b\)](#)  
 S. 41 applied (15.11.2000) by [S.I. 2000/2831, reg. 26\(1\)\(a\)](#)
- C430** S. 41 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 1\(b\)](#)

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- C431** S. 41 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2)**, 28(3)(b)(5)(a).
- C432** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)**, (2)(3)
- C433** Ss. 33-42 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**  
Ss. 33-42 applied (20.9.2001) by S.I. 2001/2975, **reg. 19(d)**
- C434** S. 41 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1)**, **Sch. 8 para. 1(b)**
- C435** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1)**, 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)  
Ss. 33-42 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(b)**  
Ss. 33-42 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C436** S. 41 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 41 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 41 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 41 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C437** Ss. 37-41 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(h)** (subject to (4)-(6)) (with art. 7)
- C438** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C439** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries)(England and Wales) Regulations 2009 (S.I. 2009/1927), {reg. 9(1)}
- C440** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), **reg. 6(2)(3)(g)**
- C441** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), **regs. 1(2)**, **38(2)(3)(g)**
- C442** S. 41 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1**, 18, 37(1), {Sch. 4 paras. 1, 2}

## **42 Power of court to order cause of offence to be remedied or, in certain cases, forfeiture.**

- (1) Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.
- (2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this subsection, as the case may be.
- (3) Where a person is ordered under subsection (1) above to remedy any matters, that person shall not be liable under any of the relevant statutory provisions in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under subsection (2) above.
- (4) Subject to the following subsection, the court by or before which a person is convicted of an offence such as is mentioned in section 33(4)(c) in respect of any such explosive article or substance as is there mentioned may order the article or substance in question to be forfeited and either destroyed or dealt with in such other manner as the court may order.

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- (5) The court shall not order anything to be forfeited under the preceding subsection where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

#### **Modifications etc. (not altering text)**

- C443** S. 42 applied by [S.I. 1989/840, arts. 2-10](#)  
 S. 42 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)  
 S. 42 applied (with modifications) (9.1.1995) by [S.I. 1994/3260, reg. 17\(3\)\(5\)](#)  
 S. 42: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(k\), 5](#) (with s. 3(5))  
 S. 42 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)  
 S. 42 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192, reg. 15, Sch. 14 para. 1\(b\)](#)  
 S. 42 applied (with modifications) (1.7.1997) by [S.I. 1997/831, reg. 19\(1\)-\(4\), Sch. 15 para. 1\(a\)\(b\)](#)  
 S. 42 applied (15.11.2000) by [S.I. 2000/2831, reg. 26\(1\)\(a\)](#)
- C444** S. 42 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 1\(b\)](#)
- C445** S. 42 modified (6.4.1992) by [S.I. 1992/711, regs. 1\(2\), 28\(3\)\(b\)\(5\)\(a\)](#).
- C446** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743, reg. 20\(1\), \(2\)\(3\)](#)
- C447** Ss. 33-42 applied (with modifications) (19.11.1999) by [S.I. 1999/2892, reg. 16\(1\)](#)  
 Ss. 33-42 applied (20.9.2001) by [S.I. 2001/2975, reg. 19\(d\)](#)
- C448** S. 42 applied (with modifications) (29.11.1999) by [S.I. 1999/2001, reg. 24\(1\), Sch. 8 para. 1\(b\)](#)
- C449** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with art. 11)  
 Ss. 33-42 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689, reg. 14\(1\)\(b\)](#)  
 Ss. 33-42 applied (16.5.2002) by [S.I. 2002/1166, reg. 31](#) (with art. 37)
- C450** S. 42 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by [S.I. 2003/403, regs. 1\(2\), 23\(2\)\(a\)\(3\)](#); s. 42 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129, reg. 23\(3\)\(e\)](#); ss. 37-42 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#); s. 42 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928, reg. 4\(2\)\(3\)\(5\)\(6\)](#); s. 42 applied (2.4.2006) by [S.I. 2006/397, reg. 34\(3\)\(d\)](#)
- C451** S. 42(1) extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10](#)
- C452** S. 42(1)-(3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C453** S. 42(2) extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10](#)
- C454** S. 42(1)-(3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)
- C455** S. 42(3) extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10](#)
- C456** S. 42(1)-(3) applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(h\)](#) (subject to (4)-(6)) (with art. 7)

### *Financial provisions*

#### **43 Financial provisions.**

- (1) It shall be the duty of the Secretary of State to pay to the Commission such sums as are approved by the Treasury and as he considers appropriate for the purpose of enabling the Commission to perform its functions; and it shall be the duty of the Commission

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to pay to the Executive such sums as the Commission considers appropriate for the purpose of enabling the Executive to perform its functions.

- (2) Regulations may provide for such fees as may be fixed by or determined under the regulations to be payable for or in connection with the performance by or on behalf of any authority to which this subsection applies of any function conferred on that authority by or under any of the relevant statutory provisions.
- (3) Subsection (2) above applies to the following authorities, namely the Commission, the Executive, the Secretary of State, . . . <sup>F75</sup>, every enforcing authority, and any other person on whom any function is conferred by or under any of the relevant statutory provisions.
- (4) Regulations under this section may specify the person by whom any fee payable under the regulations is to be paid; but no such fee shall be made payable by a person in any of the following capacities, namely an employee, a person seeking employment, a person training for employment, and a person seeking training for employment.
- (5) Without prejudice to section 82(3), regulations under this section may fix or provide for the determination of different fees in relation to different functions, or in relation to the same function in different circumstances.
- [<sup>F76</sup>(6) The power to make regulations under this section shall be exercisable by the Secretary of State <sup>F77</sup>. . . ]
- (8) In subsection (4) above the references to a person training for employment and a person seeking training for employment shall include respectively a person attending an industrial rehabilitation course provided by virtue of the <sup>M9</sup>Employment and Training Act 1973 and a person seeking to attend such a course.
- (9) For the purposes of this section the performance by an inspector of his functions shall be treated as the performance by the enforcing authority which appointed him of functions conferred on that authority by or under any of the relevant statutory provisions.

#### Textual Amendments

**F75** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

**F76** S. 43(6) substituted for s. 43(6)(7) by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 12](#)

**F77** Words in s. 43(6) repealed (27.3.2002) by [S.I. 2002/794](#), [art. 5\(2\)](#), [Sch.](#) (with [art. 6](#))

#### Modifications etc. (not altering text)

**C457** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)

**C458** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#))

#### Marginal Citations

**M9** 1973 c. 50.

#### [<sup>F78</sup>43A Railway safety levy

- (1) The Secretary of State may make regulations requiring persons who provide railway services to pay railway safety levy.

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- (2) Railway safety levy shall be applied only for the purpose of meeting expenses incurred—
- (a) in respect of activity undertaken by the Executive in reliance on section 117 of the Railways Act 1993 (safety of railways, &c.), or
  - (b) in respect of activity undertaken by the Executive, under or by virtue of any other enactment, in relation to a transport system to which that section applies.
- (3) The railway safety levy shall not be used to meet—
- (a) an expense in respect of which a fee is payable under regulations made under section 43, or
  - (b) an expense in respect of a matter specified by the regulations for the purpose of this paragraph.
- (4) Where an expense is incurred partly in respect of activity within subsection (2)(a) or (b) and partly in respect of other activity, the railway safety levy may be used to meet a part of that expense which is reasonably referable to activity within subsection (2) (a) or (b).
- (5) Regulations under subsection (1) may, in particular, determine or enable the Commission or the Executive to determine—
- (a) the total amount of the railway safety levy to be imposed in respect of a specified period;
  - (b) the persons by whom the levy is to be paid;
  - (c) the criteria for assessing the proportion of the levy to be paid by a particular person (which may, in particular, refer to the size of a person's income or provide for an amount to be reduced or waived in specified circumstances);
  - (d) the periods in respect of which the levy is to be paid;
  - (e) the manner in which the levy is to be paid;
  - (f) the person to whom the levy is to be paid;
  - (g) when the levy is to be paid.
- (6) Regulations under subsection (1) may, in particular, enable the Commission or the Executive—
- (a) to require a person who provides railway services to supply information for the purposes of the consideration of a matter specified in subsection (5);
  - (b) where information requested is not supplied, to make assumptions;
  - (c) to revise a determination of a matter specified in subsection (5)(whether before, during or after the period to which it relates);
  - (d) to make refunds.
- (7) Regulations by virtue of subsection (6)(a) may, in particular, make provision—
- (a) about the manner and timing of the supply of information;
  - (b) about certification of the accuracy of information supplied;
  - (c) creating a criminal offence in connection with the supply of inaccurate or misleading information (but not an offence punishable with imprisonment).
- (8) Regulations under subsection (1) may enable payment to be enforced by civil proceeding.



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- (9) For the purposes of this section a person provides railway services if he manages or controls, or participates in managing or controlling, a transport system to which section 117 of the Railways Act 1993 applies.]

#### Textual Amendments

**F78** S. 43A inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 105(1)**, 120

### Miscellaneous and supplementary

#### 44 Appeals in connection with licensing provisions in the relevant statutory provisions.

- (1) Any person who is aggrieved by a decision of an authority having power to issue licences (other than . . . <sup>F79</sup> nuclear site licences) under any of the relevant statutory provisions—
- refusing to issue him a licence, to renew a licence held by him, or to transfer to him a licence held by another;
  - issuing him a licence on or subject to any term, condition or restriction whereby he is aggrieved;
  - varying or refusing to vary any term, condition or restriction on or subject to which a licence is held by him; or
  - revoking a licence held by him,
- may appeal to the Secretary of State.
- (2) The Secretary of State may, in such cases as he considers it appropriate to do so, having regard to the nature of the questions which appear to him to arise, direct that an appeal under this section shall be determined on his behalf by a person appointed by him for that purpose.
- (3) Before the determination of an appeal the Secretary of State shall ask the appellant and the authority against whose decision the appeal is brought whether they wish to appear and be heard on the appeal and—
- the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid;
  - the Secretary of State shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.
- (4) The Tribunals and Inquiries Act [<sup>F80</sup>1992] shall apply to a hearing held by a person appointed in pursuance of subsection (2) above to determine an appeal as it applies to a statutory inquiry held by the Secretary of State, but as if in [<sup>F80</sup>section 10(1)] of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State included a reference to a decision taken on his behalf by that person.
- (5) A person who determines an appeal under this section on behalf of the Secretary of State and the Secretary of State, if he determines such an appeal, may give such directions as he considers appropriate to give effect to his determination.
- (6) The Secretary of State may pay to any person appointed to hear or determine an appeal under this section on his behalf such remuneration and allowances as the Secretary of State may with the approval of the Minister for the Civil Service determine.

*Status: Point in time view as at 01/01/2005.*

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(7) In this section—

- (a) “licence” means a licence under any of the relevant statutory provisions other than [<sup>F81</sup>a nuclear site licence];
- (b) “nuclear site licence” means a licence to use a site for the purpose of installing or operating a nuclear installation within the meaning of the following subsection.

(8) For the purposes of the preceding subsection “nuclear installation” means—

- (a) a nuclear reactor (other than such a reactor comprised in a means of transport, whether by land, water or air); or
- (b) any other installation of such class or description as may be prescribed for the purposes of this paragraph or section 1(1)(b) of the <sup>M10</sup>Nuclear Installations Act 1965 being an installation designed or adapted for—
  - (i) the production or use of atomic energy; or
  - (ii) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiations; or
  - (iii) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel;

and in this subsection—

“atomic energy” has the meaning assigned by the <sup>M11</sup>Atomic Energy Act 1946;

“nuclear reactor” means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

#### Textual Amendments

**F79** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

**F80** Words in s. 44(4) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), [Sch. 3 para.9](#)

**F81** Words substituted by [Employment Protection Act 1975 \(\(c. 71\)](#), [Sch. 15 para. 13](#)

#### Modifications etc. (not altering text)

**C459** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)

**C460** Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#))

**C461** S. 44(2)-(6) applied (13.5.2000) by [S.I. 1999/3232](#), [reg. 5\(6\)](#)

**C462** S. 44(2)-(6) applied (26.4.2005) by [S.I. 2005/1082](#), [reg. 19](#)

#### Marginal Citations

**M10** 1965 c. 57.

**M11** 1946 c. 80.

## 45 Default powers.

- (1) Where, in the case of a local authority who are an enforcing authority, the Commission is of the opinion that an investigation should be made as to whether that local authority

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have failed to perform any of their enforcement functions the Commission may make a report to the Secretary of State.

- (2) The Secretary of State may, after considering a report submitted to him under the preceding subsection, cause a local inquiry to be held; and the provisions of subsections (2) to (5) of section 250 of the<sup>M12</sup>Local Government Act 1972 as to local inquiries shall, without prejudice to the generality of subsection (1) of that section, apply to a local inquiry so held as they apply to a local inquiry held in pursuance of that section.
- (3) If the Secretary of State is satisfied, after having caused a local inquiry to be held into the matter, that a local authority have failed to perform any of their enforcement functions, he may make an order declaring the authority to be in default.
- (4) An order made by virtue of the preceding subsection which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (hereafter in this section referred to as “the defaulting authority”) to perform such of their enforcement functions as are specified in the order in such manner as may be so specified and may specify the time or times within which those functions are to be performed by the authority.
- (5) If the defaulting authority fail to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to the Executive such of the enforcement functions of the defaulting authority as he thinks fit.
- (6) Where any enforcement functions of the defaulting authority are transferred in pursuance of the preceding subsection, the amount of any expenses which the Executive certifies were incurred by it in performing those functions shall on demand be paid to it by the defaulting authority.
- (7) Any expenses which in pursuance of the preceding subsection are required to be paid by the defaulting authority in respect of any enforcement functions transferred in pursuance of this section shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the enforcement functions had not been transferred and the expenses had been incurred by the authority in performing them.
- (8) Where the defaulting authority are required to defray any such expenses the authority shall have the like powers for the purpose of raising the money for defraying those expenses as they would have had for the purpose of raising money required for defraying expenses incurred for the purpose of the enforcement functions in question.
- (9) An order transferring any enforcement functions of the defaulting authority in pursuance of subsection (5) above may provide for the transfer to the Executive of such of the rights, liabilities and obligations of the authority as the Secretary of State considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any rights, liabilities and obligations held by the Executive for the purposes of the transferred enforcement functions.
- (10) The Secretary of State may by order vary or revoke any order previously made by him in pursuance of this section.
- (11) In this section “enforcement functions”, in relation to a local authority, means the functions of the authority as an enforcing authority.

*Status: Point in time view as at 01/01/2005.*

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(12) In the application of this section to Scotland—

- (a) in subsection (2) for the words “subsections (2) to (5) of section 250 of the <sup>M13</sup>Local Government Act 1972” there shall be substituted the words “subsections (2) to (8) of section 210 of the <sup>M14</sup>Local Government (Scotland) Act 1973”, except that before 16th May 1975 for the said words there shall be substituted the words “subsections (2) to (9) of section 355 of the <sup>M15</sup>Local Government (Scotland) Act 1947”;
- (b) in subsection (5) the words “instead of enforcing the order by mandamus” shall be omitted.

**Modifications etc. (not altering text)**

**C463** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**

**C464** Ss. 1–59, 80–82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with **art. 11**)

**Marginal Citations**

**M12** 1972 c. 70.

**M13** 1972 c. 70.

**M14** 1973 c. 65.

**M15** 1947 c. 43.

**46 Service of notices.**

- (1) Any notice required or authorised by any of the relevant statutory provisions to be served on or given to an inspector may be served or given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (2) Any such notice required or authorised to be served on or given to a person other than an inspector may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (3) Any such notice may—
  - (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;
  - (b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business or, in Scotland, the firm.
- (4) For the purposes of this section and of <sup>F82</sup>section 7 of the <sup>M16</sup>Interpretation Act 1978] (service of documents by post) in its application to this section, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—
  - (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
  - (b) in the case of a partnership or a person having the control or the management of the partnership business, it shall be the principal office of the partnership;
 and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.

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- (5) If the person to be served with or given any such notice has specified an address within the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and [F82section 7 of the Interpretation Act 1978] as his proper address.
- (6) Without prejudice to any other provision of this section, any such notice required or authorised to be served on or given to the owner or occupier of any premises (whether a body corporate or not) may be served or given by sending it by post to him at those premises, or by addressing it by name to the person on or to whom it is to be served or given and delivering it to some responsible person who is or appears to be resident or employed in the premises.
- (7) If the name or the address of any owner or occupier of premises on or to whom any such notice as aforesaid is to be served or given cannot after reasonable inquiry be ascertained, the notice may be served or given by addressing it to the person on or to whom it is to be served or given by the description of “owner” or “occupier” of the premises (describing them) to which the notice relates, and by delivering it to some responsible person who is or appears to be resident or employed in the premises, or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.
- (8) The preceding provisions of this section shall apply to the sending or giving of a document as they apply to the giving of a notice.

### Textual Amendments

**F82** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

### Modifications etc. (not altering text)

**C465** S. 46 applied by [S.I. 1989/840, arts. 2-10](#)

S. 46 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)

S. 46 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10 S. 46](#): power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(l\), 5](#) (with [s. 3\(5\)](#))

S. 46 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)

**C466** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750, art. 2\(2\)\(4\)](#))

**C467** S. 46 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by [S.I. 2003/403, regs. 1\(2\), 23\(2\)\(a\)\(3\)](#); s. 46 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309, reg. 17](#)

**C468** S. 46 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with [art. 1\(1\)](#) of the amending S.I.) by [The Channel Tunnel \(Safety\) Order 2007 \(S.I. 2007/3531\), art. 4\(2\)\(3\)\(i\)](#) (subject to [\(4\)-\(6\)](#)) (with [art. 7](#))

**C469** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\), arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750, art. 2\(3\)](#))

**C470** S. 46 applied (with modifications) (E.W.S.) (6.4.2010) by [The Rail Vehicle Accessibility \(Non-Interoperable Rail System\) Regulations 2010 \(S.I. 2010/432\), reg. 6\(2\)\(3\)\(h\)](#)

**C471** S. 46 applied (with modifications) (E.W.S.) (6.4.2010) by [The Train Driving Licences and Certificates Regulations 2010 \(S.I. 2010/724\), regs. 1\(2\), 38\(2\)\(3\)\(h\)](#)

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### Marginal Citations

**M16** 1978 c. 30.

## 47 Civil liability.

- (1) Nothing in this Part shall be construed—
- (a) as conferring a right of action in any civil proceedings in respect of any failure to comply with any duty imposed by sections 2 to 7 or any contravention of section 8; or
  - (b) as affecting the extent (if any) to which breach of a duty imposed by any of the existing statutory provisions is actionable; or
  - (c) as affecting the operation of section 12 of the <sup>M17</sup>Nuclear Installations Act 1965 (right to compensation by virtue of certain provisions of that Act).
- (2) Breach of a duty imposed by health and safety regulations <sup>F83</sup> . . . shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise.
- (3) No provision made by virtue of section 15(6)(b) shall afford a defence in any civil proceedings, whether brought by virtue of subsection (2) above or not; but as regards any duty imposed as mentioned in subsection (2) above health and safety regulations <sup>F83</sup> . . . may provide for any defence specified in the regulations to be available in any action for breach of that duty.
- (4) Subsections (1)(a) and (2) above are without prejudice to any right of action which exists apart from the provisions of this Act, and subsection (3) above is without prejudice to any defence which may be available apart from the provisions of the regulations there mentioned.
- (5) Any term of an agreement which purports to exclude or restrict the operation of subsection (2) above, or any liability arising by virtue of that subsection shall be void, except in so far as health and safety regulations <sup>F83</sup> . . . provide otherwise.
- (6) In this section “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

### Textual Amendments

**F83** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

### Modifications etc. (not altering text)

- C472** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**  
 Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), **regs. 7, 9**  
 Ss. 16–26, 33–42, 47 applied (15.11.2000) by [S.I. 2000/2831](#), **reg. 26(1)(a)**
- C473** Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by [S.I. 2009/1750](#), **art. 2(2)(4)**)
- C474** Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by The Health and Safety at [Work etc. Act 1974](#) ([Application outside Great Britain](#)) Order 2001 ([S.I. 2001/2127](#)), **arts. 8A, 8B** (as inserted by [S.I. 2009/1750](#), **art. 2(3)**)
- C475** S. 47(2) applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), **reg. 14(1)(c)**

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### Marginal Citations

M17 1965 c. 57.

## 48 Application to Crown.

- (1) Subject to the provisions of this section, the provisions of this Part, except sections 21 to 25 and 33 to 42, and of regulations made under this Part shall bind the Crown.
- (2) Although they do not bind the Crown, sections 33 to 42 shall apply to persons in the public service of the Crown as they apply to other persons.
- (3) For the purposes of this Part and regulations made thereunder persons in the service of the Crown shall be treated as employees of the Crown whether or not they would be so treated apart from this subsection.
- (4) Without prejudice to section 15(5), the Secretary of State may, to the extent that it appears to him requisite or expedient to do so in the interests of the safety of the State or the safe custody of persons lawfully detained, by order exempt the Crown either generally or in particular respects from all or any of the provisions of this Part which would, by virtue of subsection (1) above, bind the Crown.
- (5) The power to make orders under this section shall be exercisable by statutory instrument, and any such order may be varied or revoked by a subsequent order.
- (6) Nothing in this section shall authorise proceedings to be brought against Her Majesty in her private capacity, and this subsection shall be construed as if section 38(3) of the <sup>M18</sup>Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

### Modifications etc. (not altering text)

- C476** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**  
S. 48 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 11**  
S. 48 applied (with modifications) (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 11**
- C477** Ss. 1–59, 80–82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C478** Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C479** S. 48(1) applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(f)**
- C480** S. 48(2) applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(f)**
- C481** S. 48(3) applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(f)**
- C482** S. 48(4) modified (E.W.) (25.09.1991) by Atomic Weapons Establishment Act 1991 (c. 46, SIF 8), ss. 3, 6, **Sch. para. 7(1)**.

### Marginal Citations

M18 1947 c. 44.

## 49 Adaptation of enactments to metric units or appropriate metric units.

- (1) [<sup>F84</sup>Regulations made under this subsection may amend]—
  - (a) any of the relevant statutory provisions; or

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- (b) any provision of an enactment which relates to any matter relevant to any of the general purposes of this Part but is not among the relevant statutory provisions; or
- (c) any provision of an instrument made or having effect under any such enactment as is mentioned in the preceding paragraph,

by substituting an amount or quantity expressed in metric units for an amount or quantity not so expressed or by substituting an amount or quantity expressed in metric units of a description specified in the regulations for an amount or quantity expressed in metric units of a different description.

- (2) The amendments shall be such as to preserve the effect of the provisions mentioned except to such extent as in the opinion of the [<sup>F84</sup>authority making the regulations] is necessary to obtain amounts expressed in convenient and suitable terms.
- (3) Regulations made <sup>F85</sup> . . . under this subsection may, in the case of a provision which falls within any of paragraphs (a) to (c) of subsection (1) above and contains words which refer to units other than metric units, repeal those words [<sup>F84</sup>if the authority making the regulations] is of the opinion that those words could be omitted without altering the effect of that provision.
- [<sup>F86</sup>(4) The power to make regulations under this section shall be exercisable by the Secretary of State <sup>F87</sup> . . .].

#### Textual Amendments

- F84** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 15(1)**
- F85** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F86** S. 49(4) substituted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 15(2)**
- F87** Words in s. 49(4) repealed (27.3.2002) by S.I. 2002/794, **art. 5(2)**, **Sch.** (with **art. 6**)

#### Modifications etc. (not altering text)

- C483** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**
- C484** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1)**, 5(1)(2), 6(1), 7(1), 8(1), 10 (with **art. 11**) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C485** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at [Work etc. Act 1974](#) ([Application outside Great Britain](#)) Order 2001 (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)

## 50 Regulations under the relevant statutory provisions.

- [<sup>F88</sup>(1) Where any power to make regulations under any of the relevant statutory provisions is exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or both of them acting jointly that power may be exercised either so as to give effect (with or without modifications) to proposals submitted by the Commission under section 11(2)(d) or independently of any such proposals; but the authority who is to exercise the power shall not exercise it independently of proposals from the Commission unless he has consulted the Commission and such other bodies as appear to him to be appropriate.]
- (2) Where the [<sup>F89</sup>authority who is to exercise any such power as is mentioned in subsection (1) above proposes to exercise that power] so as to give effect to any



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such proposals as are there mentioned with modifications, he shall, before making the regulations, consult the Commission.

- (3) Where the Commission proposes to submit [<sup>F90</sup>under section 11(2)(d)] any such proposals as are mentioned in subsection (1) above except proposals for the making of regulations under section 43(2), it shall, before so submitting them, consult—
- (a) any government department or other body that appears to the Commission to be appropriate (and, in particular, in the case of proposals for the making of regulations under section 18(2), any body representing local authorities that so appears, and, in the case of proposals for the making of regulations relating to the electro-magnetic radiations, the National Radiological Protection Board);
  - (b) such government departments and other bodies, if any, as, in relation to any matter dealt with in the proposals, the Commission is required to consult under this subsection by virtue of directions given to it by the Secretary of State.

<sup>F91</sup>(4) .....

#### Textual Amendments

- F88** S. 50(1) substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 16\(1\)](#)  
**F89** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 16\(2\)](#)  
**F90** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 16\(3\)](#)  
**F91** Ss. 2(5), 29, 31, 32, 50(4)(5), 53(2)–(6) repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)

#### Modifications etc. (not altering text)

- C486** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, [arts. 2–10](#)  
**C487** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#))

## 51 Exclusion of application to domestic employment.

Nothing in this Part shall apply in relation to a person by reason only that he employs another, or is himself employed, as a domestic servant in a private household.

#### Modifications etc. (not altering text)

- C488** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, [arts. 2–10](#)  
**C489** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#)) (as amended by S.I. 2009/1750, [art. 2\(2\)\(4\)](#))  
**C490** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 ([Application outside Great Britain](#)) Order 2001 (S.I. 2001/2127), [arts. 8A, 8B](#) (as inserted by S.I. 2009/1750, [art. 2\(3\)](#))

## [<sup>F92</sup>51A Application of Part to police.

- (1) For the purposes of this Part, a person who, otherwise than under a contract of employment, holds the office of constable or an appointment as police cadet shall be treated as an employee of the relevant officer.
- (2) In this section “the relevant officer”—

*Status: Point in time view as at 01/01/2005.*

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- (a) in relation to a member of a police force or a special constable or police cadet appointed for a police area, means the chief officer of police,
  - (b) in relation to a person holding office under section 9(1)(b) or 55(1)(b) of the Police Act 1997 (police members of the National Criminal Intelligence Service and the National Crime Squad) means the Director General of the National Criminal Intelligence Service or, as the case may be, the Director General of the National Crime Squad, and
  - (c) in relation to any other person holding the office of constable or an appointment as police cadet, means the person who has the direction and control of the body of constables or cadets in question.
- (3) For the purposes of regulations under section 2(4) above—
- (a) the Police Federation for England and Wales shall be treated as a recognised trade union recognised by each chief officer of police in England and Wales,
  - (b) the Police Federation for Scotland shall be treated as a recognised trade union recognised by each chief officer of police in Scotland, and
  - (c) any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 shall be treated as a recognised trade union recognised by each chief officer of police in England, Wales and Scotland.
- (4) Regulations under section 2(4) above may provide, in relation to persons falling within subsection (2)(b) or (c) above, that a body specified in the regulations is to be treated as a recognised trade union recognised by such person as may be specified.]

#### Textual Amendments

**F92** S. 51A inserted (E.W.S.) (1.7.1998) by 1997 c. 42, s. 1; S.I. 1998/1542, art. 2

#### Modifications etc. (not altering text)

**C491** S. 51A applied (14.4.1999) by S.I. 1999/860, art. 2

**C492** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11)

## 52 Meaning of work and at work.

- (1) For the purposes of this Part—
- (a) “work” means work as an employee or as a self-employed person;
  - (b) an employee is at work throughout the time when he is in the course of his employment, but not otherwise;
  - [<sup>F93</sup>(bb) a person holding the office of constable is at work throughout the time when he is on duty, but not otherwise; and]
  - (c) a self-employed person is at work throughout such time as he devotes to work as a self-employed person;
- and, subject to the following subsection, the expressions “work” and “at work”, in whatever context, shall be construed accordingly.
- (2) Regulations made under this subsection may—
- (a) extend the meaning of “work” and “at work” for the purposes of this Part; and
  - (b) in that connection provide for any of the relevant statutory provisions to have effect subject to such adaptations as may be specified in the regulations.

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[<sup>F94</sup>(3) The power to make regulations under subsection (2) above shall be exercisable by the Secretary of State <sup>F95</sup>. . . .]

#### Textual Amendments

**F93** S. 52(1)(bb) substituted for word in s. 52(1)(b) (E.W.S.) (1.7.1998) by 1997 c. 42, s. 2; S.I. 1998/1542, art. 2

**F94** S. 52(3) substituted for s. 52(3)(4) by Employment Protection Act 1975 (c. 71), Sch. 15 para. 17

**F95** Words in s. 52(3) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), Sch. (with art. 6)

#### Modifications etc. (not altering text)

**C493** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, arts. 2–10

**C494** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by S.I. 2009/1750, art. 2(2)(4))

**C495** S. 52 applied (E.W.S.) (1.4.2006) by Railways Act 2005 (c. 14), ss. 2, 60, {Sch. 3 para. 11(10)}; S.I. 2006/266, art. 2(2), Sch.

**C496** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, art. 2(3))

## 53 General interpretation of Part I.

(1) In this Part, unless the context otherwise requires—

<sup>F96</sup>

“article for use at work” means—

(a) any plant designed for use or operation (whether exclusively or not) by persons at work, and

(b) any article designed for use as a component in any such plant;

[<sup>F97</sup>“article of fairground equipment” means any fairground equipment or any article designed for use as a component in any such equipment;]

“code of practice” (without prejudice to section 16(8)) includes a standard, a specification and any other documentary form of practical guidance;

“the Commission” has the meaning assigned by section 10(2);

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“contract of employment” means a contract of employment or apprenticeship (whether express or implied and, if express, whether oral or in writing);

“credit-sale agreement” means an agreement for the sale of goods, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;

[<sup>F98</sup>“customs officer” means an officer within the meaning of the Customs and Excise Management Act <sup>M19</sup>1979;]

“domestic premises” means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling), and

“non-domestic premises” shall be construed accordingly;

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“employee” means an individual who works under a contract of employment [F99 or is treated by section 51A as being an employee], and related expressions shall be construed accordingly;

“enforcing authority” has the meaning assigned by section 18(7);

“the Executive” has the meaning assigned by section 10(5);

“the existing statutory provisions” means the following provisions while and to the extent that they remain in force, namely the provisions of the Acts mentioned in Schedule 1 which are specified in the third column of that Schedule and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified;

F100

[F101 “fairground equipment” means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public;]

“the general purposes of this Part” has the meaning assigned by section 1;

“health and safety regulations” has the meaning assigned by section 15(1);

“hire-purchase agreement” means an agreement other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired; and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs:
  - (i) the exercise of an option to purchase by that person;
  - (ii) the doing of any other specified act by any party to the agreement;
  - (iii) the happening of any other event;

and “hire-purchase” shall be construed accordingly;

“improvement notice” means a notice under section 21;

“inspector” means an inspector appointed under section 19;

F100

“local authority” means—

- (a) in relation to England F102 . . . , a county council, . . . F103 a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple,
- (aa) [F104 in relation to Wales, a county council or a county borough council,]
- (b) in relation to Scotland, a [F105 council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

[F106 “micro-organism” includes any microscopic biological entity which is capable of replication;]

“offshore installation” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

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“personal injury” includes any disease and any impairment of a person’s physical or mental condition;

“plant” includes any machinery, equipment or appliance;

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft,
- (b) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof), and
- (c) any tent or moveable structure;

“prescribed” means prescribed by regulations made by the Secretary of State;

“prohibition notice” means a notice under section 22;

<sup>F100</sup> .....

“the relevant statutory provisions” means—

- (a) the provisions of this Part and of any health and safety regulations <sup>F107</sup> ... ; and
- (b) the existing statutory provisions;

“self-employed person” means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others;

“substance” means any natural or artificial substance [<sup>F108</sup>(including micro-organisms)], whether in solid or liquid form or in the form of a gas or vapour;

<sup>F109</sup> .....

“supply”, where the reference is to supplying articles or substances, means supplying them by way of sale, lease, hire or hire-purchase, whether as principal or agent for another.

<sup>F110</sup>(2) .....

**Textual Amendments**

- F96** Definitions repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F97** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(a)**
- F98** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(b)**
- F99** S. 53(1): words in definition of "employee" inserted (E.W.S.) (1.7.1998) by 1997 c. 42, s. 6(1); S.I. 1998/1542, **art. 2**
- F100** Definition repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F101** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(c)**
- F102** S. 53(1): words in definition of "local authority" repealed (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 9, Sch. 18** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F103** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F104** S. 53(1): in definition of "local authority" para. (aa) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 9** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F105** S. 53(1): words in definition of "local authority" substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 93(3); S.I. 1996/323, art. 4(1)(b)(c)**
- F106** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(d)**
- F107** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F108** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(e)**
- F109** Definition repealed by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(3), **Sch. 5**

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**F110** Ss. 2(5), 29, 31, 32, 50(4)(5), 53(2)–(6) repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

**Modifications etc. (not altering text)**

**C497** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**

**C498** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)

**C499** In s. 53: definition of "relevant statutory provisions" applied by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), s. 1, **Sch. Pt. VII s. 62**

In s. 53: definition of "relevant statutory provisions" applied (25.7.1991) by [Highland Regional Council \(Harbours\) Order Confirmation Act 1991 \(c. xii\)](#), s. 1, **Sch. s. 61(1)(f)**

**Marginal Citations**

**M19** [1979 c.2\(40:1\)](#).

**54 Application of Part I to Isles of Scilly.**

This Part, in its application to the Isles of Scilly, shall apply as if those Isles were a local government area and the Council of those Isles were a local authority.

**Modifications etc. (not altering text)**

**C500** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**

**C501** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by [S.I. 2009/1750](#), **art. 2(2)(4)**)

**C502** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by [S.I. 2009/1750](#), **art. 2(3)**)

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