



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

Provisions as to offences

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)

- C1** 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\(1\)\(a\)](#)
- C2** S. 36 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\), 28\(3\)\(b\)\(5\)\(a\)](#)
- C3** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743](#), [reg. 20\(1\)](#), (2)(3)

Changes to legislation: There are currently no known outstanding effects for the
Health and Safety at Work etc. Act 1974, Section 36. (See end of Document for details)

- C4** 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)**
- C5** 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)
- C6** 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)**
- C7** 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**
- C8** 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)**)
- C9** 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)}
- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), **arts. 1(1), 3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(1), 8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(4), 19** (with reg. 3(4)(5)313233(1))
- C13** Ss. 33-42 applied (1.10.2014) by The Genetically Modified Organisms (Contained Use) Regulations 2014 (S.I. 2014/1663), **regs. 1, 30(2)(a)** (with reg. 3(1)(2))
- C14** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(2), 17(1)** (with reg. 3(4)(5)313233(1))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), **regs. 1(1), 27(1)(d)** (with regs. 3(2), 27(3))
- C16** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), **regs. 1, 36(8)(d)** (with reg. 4(2), Sch. 14)
- C17** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), **regs. 1, 36(1)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 34-42 applied (with modifications) (30.7.2018) by The Cableway Installations Regulations 2018 (S.I. 2018/816), **regs. 1, 21(1)-(3)** (with reg. 4)
- C19** S. 36(1)(2) applied (with modifications) (1.1.1993) by S.I.1992/3073, **reg. 28, Sch. 6 para. 1(c)**
- C20** 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)**
- C21** 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))
- C22** S. 36(1) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C23** 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)**
- C24** S. 36(1) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C25** 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)
- C26** 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)**
- C27** 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)**

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- C28** 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}
- C29** S. 36(1)(2) applied (with modifications) (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **regs. 1(2), 39(2)(3)(g)** (with reg. 3)
- C30** S. 36(1) applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), **reg. 1(1), Sch. 12 paras. 2, 3**
- C31** S. 36(1)(2) applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by [The Explosives Regulations 2014 \(Amendment\) Regulations 2016 \(S.I. 2016/315\)](#), **reg. 1, Sch. 1** (with **regs. 2(1), 15**))
- C32** S. 36 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C33** 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)
- C34** S. 36(2) applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), **reg. 1(1), Sch. 12 paras. 2, 3**

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