



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Waste Management Licences

38 Revocation and suspension of licences. **E+W**

F1

Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F1 S. 38 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), regs. 73, 74(2), Sch. 21 para. 10, **Sch. 23** (with reg. 72, Sch. 4)

38 Revocation and suspension of licences. **S**

- (1) Where a licence granted by a waste regulation authority is in force and it appears to the authority—
- (a) that the holder of the licence has ceased to be a fit and proper person by reason of his having been convicted of a relevant offence; or
 - (b) that the continuation of the activities authorised by the licence would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and
 - (c) that the pollution, harm or detriment cannot be avoided by modifying the conditions of the licence;

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the authority may exercise, as it thinks fit, either of the powers conferred by subsections (3) and (4) below.

- (2) Where a licence granted by a waste regulation authority is in force and it appears to the authority that the holder of the licence has ceased to be a fit and proper person by reason of the management of the activities authorised by the licence having ceased to be in the hands of a technically competent person, the authority may exercise the power conferred by subsection (3) below.
- (3) The authority may, under this subsection, revoke the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the authority specifies in revoking the licence.
- [^{F2}(3A) In the case of a site licence, a revocation under subsection (3) may extend to the whole of the land to which the licence extends or to any part of it.]
- (4) The authority may, under this subsection, revoke the licence entirely.
- (5) [^{F3}Subject to subsection (3A),] A licence revoked under subsection (3) above shall cease to have effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the authority in revoking the licence but shall not affect the requirements imposed by the licence which the authority, in revoking the licence, specify as requirements which are to continue to bind the licence holder.
- (6) Where a licence granted by a waste regulation authority is in force and it appears to the authority—
 - (a) that the holder of the licence has ceased to be a fit and proper person by reason of the management of the activities authorised by the licence having ceased to be in the hands of a technically competent person; or
 - (b) that serious pollution of the environment or serious harm to human health has resulted from, or is about to be caused by, the activities to which the licence relates or the happening or threatened happening of an event affecting those activities; and
 - (c) that the continuing to carry on those activities, or any of those activities, in the circumstances will continue or, as the case may be, cause serious pollution of the environment or serious harm to human health;

the authority may suspend the licence so far as it authorises the carrying on of the activities specified in the licence or such of them as the authority specifies in suspending the licence.
- [^{F4}(6A) In the case of a site licence, the suspension may extend to the whole of the land to which the licence extends or to any part of it.]
- (7) The Secretary of State may, if he thinks fit in relation to a licence granted by a waste regulation authority, give to the authority directions as to whether and in what manner the authority should exercise its powers under this section; and it shall be the duty of the authority to give effect to the directions.
- (8) [^{F5}Subject to subsection (6A),] A licence suspended under subsection (6) above shall, while the suspension has effect, be of no effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by the authority in suspending the licence.

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(9) Where a licence is suspended under subsection (6) above, the authority, in suspending it or at any time while it is suspended, may require the holder of the licence to take such measures to deal with or avert the pollution or harm as the authority considers necessary.

^{F6}[(9A) A requirement imposed under subsection (9) above may require the holder of a licence to carry out works or do other things notwithstanding that he is not entitled to carry out the works or do the thing and any person whose consent would be required shall grant, or join in granting, the holder of the licence such rights in relation to the land as will enable the holder of the licence to comply with any requirements imposed on him under that subsection.

(9B) Subsections (2) to (8) of section 36A above shall, with the necessary modifications, apply where the authority proposes to impose a requirement under subsection (9) above which may require the holder of a licence to carry out any such works or do any such thing as is mentioned in subsection (9A) above as they apply where the authority proposes to issue a licence subject to any such condition as is mentioned in subsection (1) of that section, but as if—

(a) the reference in subsection (3) of that section to section 35(4) above were a reference to subsection (9A) above; and

(b) any reference in those subsections—

(i) to the condition, or the condition in question, were a reference to the requirement; and

(ii) to issuing a licence were a reference to serving a notice, under subsection (12) below, effecting the requirement.

(9C) The authority may postpone the service of any notice or the consideration of any representations required under section 36A above, as applied by subsection (9B) above, so far as the authority considers that by reason of an emergency it is appropriate to do so.]

(10) A person who, without reasonable excuse, fails to comply with any requirement imposed under subsection (9) above otherwise than in relation to special waste shall be liable—

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

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

(11) A person who, without reasonable excuse, fails to comply with any requirement imposed under subsection (9) above in relation to special waste shall be liable—

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

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

(12) Any revocation or suspension of a licence or requirement imposed during the suspension of a licence under this section shall be effected by notice served on the holder of the licence and the notice shall state the time at which the revocation or suspension or the requirement is to take effect and, in the case of suspension, the period at the end of which, or the event on the occurrence of which, the suspension is to cease.

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[^{F7}(12A) If, in the case of a partial revocation referred to in subsection (3A), the authority is of the opinion that it is necessary to modify the conditions of the licence to take account of the revocation, it shall specify the necessary modifications in the notice served under subsection (12) and the modifications specified in the notice shall take effect on the date specified in the notice.]

^{F8}[(13) If a waste regulation authority is of the opinion that proceedings for an offence under subsection (10) or (11) above would afford an ineffectual remedy against a person who has failed to comply with any requirement imposed under subsection (9) above, the authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction for the purpose of securing compliance with the requirement.]

Extent Information

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

Textual Amendments

- F2** S. 38(3A) inserted (S.) (27.3.2011) by [The Waste \(Scotland\) Regulations 2011 \(S.S.I. 2011/226\)](#), regs. 1(1), **2(7)(a)**
- F3** Words in s. 38(5) inserted (S.) (27.3.2011) by [The Waste \(Scotland\) Regulations 2011 \(S.S.I. 2011/226\)](#), regs. 1(1), **2(7)(b)**
- F4** S. 38(6A) inserted (S.) (27.3.2011) by [The Waste \(Scotland\) Regulations 2011 \(S.S.I. 2011/226\)](#), regs. 1(1), **2(7)(c)**
- F5** Words in s. 38(8) inserted (S.) (27.3.2011) by [The Waste \(Scotland\) Regulations 2011 \(S.S.I. 2011/226\)](#), regs. 1(1), **2(7)(d)**
- F6** S. 38(9A)-(9C) inserted (1.4.1998 in so far as it confers power to make regulations and 1.4.1999 so far as not already in force) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 72(1)** (with ss. 7(6), 115, 117); [S.I. 1998/604, art.2](#); [S.I. 1999/803, art. 3](#)
- F7** S. 38(12A) inserted (S.) (27.3.2011) by [The Waste \(Scotland\) Regulations 2011 \(S.S.I. 2011/226\)](#), regs. 1(1), **2(7)(e)**
- F8** S. 38(13) added (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), **Sch. 22 para. 72(2)** (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

Modifications etc. (not altering text)

- C4** S. 38 excluded (E.W.) (15.6.2002) by [The Landfill \(England and Wales\) Regulations 2002 \(S.I. 2002/1559\)](#), regs. 15(6), 17(1), 18, **Sch. 4 para. 1(8)(iii)** (with regs. 3, 4)
S. 38 excluded (S.) (11.4.2003) by [The Landfill \(Scotland\) Regulations 2003 \(S.S.I. 2003/235\)](#), regs. 1(1), 17(6), 20, **Sch. 5 para. 1(5)(a)(iii)** (with regs. 3, 4)
- C5** S. 38(10)(11) restricted (27.7.1999) by [1999 c. 24, s. 4\(7\)\(8\)](#)
- C6** S. 38(12) modified (27.7.1999) by [1999 c. 24, s. 4\(6\)\(b\)\(8\)](#)

Commencement Information

- I2** S. 38 not in force at Royal Assent, see s. 164(3); s. 38(7) in force for certain purposes at 18.2.1993 by [S.I. 1993/274, art. 2\(2\)](#); s. 38 in force in so far as not already in force at 1.5.1994 save for purposes of application to activities specified in art. 2(2) of the commencing S.I. and otherwise in force in relation to those activities in accordance with art. 3 of the commencing S.I. by [S.I. 1994/1096, arts. 2\(2\)\(3\), 3](#) (as amended by [S.I. 1994/2487, art. 2](#) and [S.I. 1994/3234, art. 2](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)