
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 22

The Waste (Scotland) Regulations 2005

Amendment of the Environmental Protection Act 1990

3.—(1) The Environmental Protection Act 1990 is amended as follows.

(2) Section 33 (prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste) is amended as follows—

(a) for subsection (2) there is substituted—

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

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

(b) in subsection (8) after “subsection (9)”, there is inserted “or (10)”;

(c) in subsection (9) after “waste”, there is inserted “(other than household waste of the description specified in subsection (10) below)”;

(d) after subsection (9) there is added—

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

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

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

(3) For subsection (2) of section 34 (duty of care etc. as respects waste) there is substituted—

“(2) An occupier of domestic property—

(a) shall, as respects the household waste produced on the property, take reasonable steps to secure that any transfer of waste is only to an authorised person or to a person for authorised transport purposes; and

(b) shall not otherwise be subject to the duty imposed by subsection (1) above.”.

(4) Section 75 (meaning of “waste” and related expressions)(1) is amended as follows—

(a) the word “or” immediately after subsection (6)(c) is omitted; and

(b) at the end of that subsection there is added—

“; or

(e) any mine or quarry”;

(1) Relevant amendments were made by paragraph 88 of Schedule 22 to the Environment Act 1995 as commenced by the Environment Act 1995 (Commencement No. 22) (Scotland) Order 2004, [S.S.I. 2004/541 \(C.40\)](#).

- (c) in subsection (7) after “premises” where it first occurs, there is inserted “(including premises used for agriculture within the meaning of the Agriculture (Scotland) Act 1948)”;
- (d) at the end of subsection (7)(b) “and” is added;
- (e) subsection (7)(c) is repealed;
- (f) in subsection (8) omit “but no regulations shall be made in respect of such waste as is mentioned in subsection (7)(c) above”;
- (g) at the end of subsection (12)(a) “and” is omitted;
- (h) at the end of subsection (12)(b) there is added–
 - “; and
 - (c) the decision of the European Commission, dated 24th May 1996, adapting Annexes IIA and IIB to Directive [75/442/EEC](#) on waste⁽²⁾

(2) (Commission Decision [96/350/EC](#) (O.J. L 135, 6.6.1996, p.32).