



# 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*

#### **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 [<sup>F1</sup>(2)] of that section; or
- (b) a report is made by the person holding an inquiry into any such matter by virtue of subsection [<sup>F2</sup>(2A)] 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>F3</sup>the <sup>M1</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.

*Status: Point in time view as at 13/10/2008. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Safety at Work etc. Act 1974, Section 34. (See end of Document for details)*

- (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>F4</sup>331(3) of the <sup>M2</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>F5</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”.]

#### Textual Amendments

- F1** Words in s. 34(1)(a) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 13\(a\)](#) (with art. 21, Sch. 2)
- F2** Words in s. 34(1)(b) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 13\(b\)](#) (with art. 21, Sch. 2)
- F3** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 17\(2\)\(a\)](#)
- F4** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 9 para. 51](#)
- F5** 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)

- C1** 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)}
- C2** 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\(3\)](#))
- C3** 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](#)

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- 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)**
- C4** Ss. 33-35 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C5** S. 34 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 3(e)(i)**
- C6** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(d), (2)(3)**
- C7** 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)**
- C8** 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)
- C9** 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) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C10** 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)**
- C11** 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}
- C12** 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)
- C13** 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)
- C14** S. 34(2) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C15** 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))
- C16** S. 34 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C17** 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)
- C18** S. 34(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)**
- C19** S. 34(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)**
- C20** S. 34(3) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C21** 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)**
- C22** S. 34(3) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C23** S. 34(3) applied (with modifications) (E.W.S.) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)**
- C24** 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)
- C25** S. 34(4) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C26** S. 34(4) applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C27** 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)**
- C28** S. 34(4) applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C29** S. 34(4) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C30** 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)

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- C31** S. 34(5) applied (with modifications) (E.W.S) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C32** 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)**
- C33** S. 34(5) applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C34** S. 34(5) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C35** 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)
- C36** S. 34(6) applied (with modifications) (E.W.S) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C37** S. 34(6) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**

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**Marginal Citations**

- M1** 1976 c. 14.  
**M2** 1975 c. 21.

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