



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

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 [^{F1}, the Environment Agency or the Natural Resources Body for Wales] by or with the consent of the Director of Public Prosecutions.

Textual Amendments

- F1** Words in s. 38 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 113](#) (with Sch. 7)

Modifications etc. (not altering text)

- C1** 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\(3\)\(5\)](#)
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\(a\)\(b\)](#)

Changes to legislation: There are currently no known outstanding effects for the
Health and Safety at Work etc. Act 1974, Section 38. (See end of Document for details)

- Ss. 16-26, 33-42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C2** 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)**
- C3** Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C4** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(d)**, (2)(3)
- C5** 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)**
- C6** S. 38 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C7** 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)
- C8** 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)**
- C9** 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)**
- C10** 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)
- C11** 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)**)
- C12** 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)**}
- C13** 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)**
- C14** 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)**
- C15** 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}
- C16** 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)**)
- C17** Ss. 37-41 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)
- C18** 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))
- C19** 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))
- C20** S. 38 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**
- C21** 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))
- C22** 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))
- C23** 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))

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- C24** 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)
- C25** 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)
- C26** S. 38 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))
- C27** 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)

Changes to legislation:

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