



Control of Pollution (Amendment) Act 1989

1989 CHAPTER 14

7 Further enforcement provisions.

(1) Subject to subsection (2) below, the provisions of sections [F¹91 to 94 of the ^{M¹}Control of Pollution Act 1974 (powers of entry, power to obtain information and duty not to disclose information)][F¹[F²section 71] of the Environmental Protection Act 1990 (powers of entry, of dealing with imminent pollution and to obtain information)] shall have effect as if the provisions of this Act were provisions of that Act and as if, in those sections, references to a were references to a [F⁴disposal authority][F⁴regulation authority].

^{F⁵}(2)

(3) A person shall be guilty of an offence under this subsection if he—

- (a) fails, without reasonable excuse, to comply with any requirement in pursuance of regulations under this Act to provide information to the Secretary of State or a [F⁴disposal authority][F⁴regulation authority]; or
- (b) in complying with any such requirement, provides information which he knows to be false [F⁶or misleading] in a material particular or recklessly provides information which is false [F⁶or misleading] in a material particular;

and in paragraph (a) above the words “without reasonable excuse” shall be construed in their application to Scotland, as in their application to England and Wales, as making it a defence for a person against whom proceedings for the failure are brought to show that there was a reasonable excuse for the failure, rather than as requiring the person bringing the proceedings to show that there was no such excuse.

(4) A person guilty of an offence under subsection (3) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person shall also be guilty of the offence; and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings for the offence are taken against any other person.

Changes to legislation: There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989, Section 7. (See end of Document for details)

- (6) Where a body corporate is guilty of an offence under this Act (including where it is so guilty by virtue of subsection (5) above) in respect of any act or omission which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (7) Where the affairs of a body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

^{F5}(8)

Textual Amendments

- F1** Words in s. 7(1) substituted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 31(4)(a)**, S.I. 1991/1319, art. 2
- F2** Words in s. 7(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 37(5)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1996/186, **art. 3**
- F3** Words in s. 7(1) substituted (E.W.) (31.3.2004 for W., 31.3.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 55(2)**, 93; S.I. 2004/690, art. 3(h); S.I. 2004/999, art. 2(m); S.I. 2004/690, art. 3(h); S.I. 2004/999, art. 2(m)
- F4** Words in s. 7(1)(3)(a)(8) substituted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 31(2)**, S.I. 1991/1319, art. 2
- F5** S. 7(2)(8) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 37(6)(7)**, **Sch. 24** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1996/186, **art. 3**
- F6** Words in s. 7(3)(b) inserted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 3** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C1** S. 7(1) modified (E.W.) (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), **regs. 1(2)**, **24(4)** (with **regs. 2**, 47(2))

Commencement Information

- I1** S. 7 wholly in force at 14.10.1991 see s. 11(2) and S.I. 1991/1618, **art. 3**.

Marginal Citations

- M1** 1974 c. 40.

Changes to legislation:

There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989, Section 7.