



Environmental Protection Act 1990

1990 CHAPTER 43

PART I

INTEGRATED POLLUTION CONTROL AND AIR POLLUTION CONTROL BY LOCAL AUTHORITIES

Provisions as to offences

23 Offences. **E+W**

- (1) It is an offence for a person—
- (a) to contravene section 6(1) above;
 - (b) to fail to give the notice required by section 9(2) above;
 - (c) to fail to comply with or contravene any requirement or prohibition imposed by an enforcement notice or a prohibition notice;
 - ^{F1}(d)
 - ^{F1}(e)
 - ^{F1}(f)
 - (g) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under section 19(2) above;
 - (h) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—
 - (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or
 - (ii) for the purpose of obtaining the grant of an authorisation to himself or any other person or the variation of an authorisation;
 - (i) intentionally to make a false entry in any record required to be kept under section 7 above;
 - (j) with intent to deceive, to forge or use a document issued or authorised to be issued under section 7 above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;

Status: Point in time view as at 28/10/2004.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Provisions as to offences is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F1}(k)
(l) to fail to comply with an order made by a court under section 26 below.

(2) A person guilty of an offence under paragraph (a), (c) or (l) of subsection (1) above shall be liable:

- (a) on summary conviction, to a fine not exceeding £20,000 [^{F2}or to imprisonment for a term not exceeding three months, or to both];
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(3) A person guilty of an offence under paragraph (b), (g), (h), (i) or (j) of subsection (1) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

^{F3}(4)

^{F4}(5)

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. 23(1)(d)-(f)(k) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 59(2), Sch. 24 (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F2** Words in s. 23(2)(a) inserted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 59(3) (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F3** S. 23(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 59(4), Sch. 24 (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F4** S. 23(5) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 par. 59(5), Sch. 24 (with ss. 7(6), 115); S.I. 1996/186, art. 3

23 Offences. S

(1) It is an offence for a person—

- (a) to contravene section 6(1) above;
- (b) to fail to give the notice required by section 9(2) above;
- (c) to fail to comply with or contravene any requirement or prohibition imposed by an enforcement notice or a prohibition notice;

^{F1}(d)

^{F1}(e)

^{F1}(f)

(g) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under section 19(2) above;

(h) to make a statement which he knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made—

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- (i) in purported compliance with a requirement to furnish any information imposed by or under any provision of this Part; or
 - (ii) for the purpose of obtaining the grant of an authorisation to himself or any other person or the variation of an authorisation;
 - (i) intentionally to make a false entry in any record required to be kept under section 7 above;
 - (j) with intent to deceive, to forge or use a document issued or authorised to be issued under section 7 above or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be likely to deceive;
 - ^{F1}(k)
 - (l) to fail to comply with an order made by a court under section 26 below.
- (2) A person guilty of an offence under paragraph (a), (c) or (l) of subsection (1) above shall be liable:
- (a) on summary conviction, to a fine not exceeding [^{F8}£40,000][^{F2}or to imprisonment for a term not exceeding three months, or to both];
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- (3) A person guilty of an offence under paragraph (b), (g), (h), (i) or (j) of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.
- ^{F3}(4)
- ^{F4}(5)

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

- F1** S. 23(1)(d)-(f)(k) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 59(2), Sch. 24 (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F2** Words in s. 23(2)(a) inserted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 59(3) (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F3** S. 23(4) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 59(4), Sch. 24 (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F4** S. 23(5) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 par. 59(5), Sch. 24 (with ss. 7(6), 115); S.I. 1996/186, art. 3
- F8** Words in s. 23(2)(a) substituted (S.) (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 66, 145(2), Sch. 2 Pt. 1 para. 4(2); S.S.I. 2004/420, art. 3, Sch. 1

24 Enforcement by High Court.

If the enforcing authority is of the opinion that proceedings for an offence under section 23(1)(c) above would afford an ineffectual remedy against a person who has

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failed to comply with the requirements of an enforcement notice or a prohibition notice, 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 notice.

25 Onus of proof as regards techniques and evidence.

- (1) In any proceedings for an offence under section 23(1)(a) above consisting in a failure to comply with the general condition implied in every authorisation by section 7(4) above, it shall be for the accused to prove that there was no better available technique not entailing excessive cost than was in fact used to satisfy the condition.
- (2) Where—
 - (a) an entry is required under section 7 above to be made in any record as to the observance of any condition of an authorisation; and
 - (b) the entry has not been made;

that fact shall be admissible as evidence that that condition has not been observed.

- [^{F5}(3) Subsection (2) above shall not have effect in relation to any entry required to be made in any record by virtue of a condition of a relevant licence, within the meaning of section 111 of the Environment Act 1995 (which makes corresponding provision in relation to such licences).]

Textual Amendments

F5 S. 25(3) inserted (1.4.1996) by 1995 c. 25, s. 111(6)(with ss. 7(6), 115); S.I. 1996/186, art. 3

26 Power of court to order cause of offence to be remedied.

- (1) Where a person is convicted of an offence under section 23(1)(a) or (c) above in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying those matters.
- (2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or as extended under this subsection, as the case may be.
- (3) Where a person is ordered under subsection (1) above to remedy any matters, that person shall not be liable under section 23 above in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under subsection (2) above.

27 Power of chief inspector to remedy harm.

- (1) Where the commission of an offence under section 23(1)(a) or (c) above causes any harm which it is possible to remedy, [^{F6}the appropriate Agency] may, subject to subsection (2) below—
 - (a) arrange for any reasonable steps to be taken towards remedying the harm; and
 - (b) recover the cost of taking those steps from any person convicted of that offence.

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- (2) [^{F7}The Environment Agency or SEPA, as the case may be, shall not exercise its] powers under this section except with the approval in writing of the Secretary of State and, where any of the steps are to be taken on or will affect land in the occupation of any person other than the person on whose land the prescribed process is being carried on, with the permission of that person.

Textual Amendments

- F6** Words in s. 27(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 60(1)**(with ss. 7(6), 115); **S.I. 1996/186, art.3**
- F7** Words in s. 27(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 60(2)**(with ss. 7(6), 115); **S.I. 1996/186, art. 3**

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