



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Prohibition on unauthorised or harmful depositing, treatment or disposal of waste*

### 33 **Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.** **E+W**

- (1) Subject to <sup>[F1]</sup>subsections (1A), (1B), (2) and (3) below] and, in relation to Scotland, to section 54 below, a person shall not—
- (a) deposit controlled waste <sup>[F2]</sup>or extractive waste], or knowingly cause or knowingly permit controlled waste <sup>[F2]</sup>or extractive waste] to be deposited in or on any land unless <sup>[F3]</sup>an environmental permit] authorising the deposit is in force and the deposit is in accordance with the licence;
  - <sup>[F4]</sup>(b) submit controlled waste, or knowingly cause or knowingly permit controlled waste to be submitted, to any listed operation (other than an operation within subsection (1)(a)) that—
    - (i) is carried out in or on any land, or by means of any mobile plant, and
    - (ii) is not carried out under and in accordance with an environmental permit.]
  - (c) treat, keep or dispose of controlled waste <sup>[F5]</sup>or extractive waste] in a manner likely to cause pollution of the environment or harm to human health.
- <sup>[F6]</sup>(1A) Paragraphs (a) and (b) of subsection (1) above do not apply in relation to a waste operation that is an exempt waste operation.
- <sup>[F7]</sup>(1B) Subsection (1) does not apply in relation to any part of a waste operation that—
- (a) is the subject of a marine licence under the Marine and Coastal Access Act 2009; or

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- (b) does not require such a licence by virtue of any provision made by or under section 74, 75 or 77 of that Act and does not involve the dismantling of a ship that is waste.]]

[<sup>F8</sup>(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 property.

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

(3) Subsection (1)(a), (b) or (c) above do not apply in cases prescribed in regulations made by the Secretary of State and the regulations may make different exceptions for different areas.

(4) The Secretary of State, in exercising his power under subsection (3) above, shall have regard in particular to the expediency of excluding from [<sup>F9</sup>the prohibitions in subsection (1)]—

- (a) any deposits which are small enough or of such a temporary nature that they may be so excluded;
- (b) any means of treatment or disposal which are innocuous enough to be so excluded;
- (c) cases for which adequate controls are provided by another enactment than this section.

(5) Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a) above, be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

(6) A person who contravenes subsection (1) above <sup>F10</sup>... commits an offence.

(7) It shall be a defence for a person charged with an offence under this section to prove—

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
- (b) <sup>F11</sup>.....

<sup>F12</sup>[(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—

- (i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and
- (ii) particulars of the acts were furnished to the waste regulation authority as soon as reasonably practicable after they were done.]

[<sup>F13</sup>(8) A person who commits an offence under this section is liable—

- (a) [<sup>F14</sup>Subject to subsection (9) below,] on summary conviction, to imprisonment for a term not exceeding [<sup>F15</sup>the general limit in a magistrates' court] or [<sup>F16</sup>a fine] or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.]

<sup>F17</sup>[<sup>F18</sup>(9) A person (other than an establishment or undertaking) who commits a relevant offence shall be liable [<sup>F19</sup>on summary conviction, or on conviction on indictment, to a fine].

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- (10) In this section, “relevant offence” means an offence under this section in respect of a contravention of subsection (1)(c) above consisting of the treatment, keeping or disposal within the curtilage of a domestic property of household waste from that property.]
- (11) For the purposes of subsection (1)(a) above, the deposit of waste in or on land includes any listed operation involving such a deposit.
- (12) For the purposes of subsection (1)(c) above, treating, keeping or disposing of controlled waste includes submitting it to any listed operation.
- (13) For the purposes of this section, a “listed operation” is an operation listed in Annex I or II of <sup>F20</sup>the Waste Framework Directive].

#### 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** Words in s. 33(1) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 4(2)(a)** (with reg. 72, Sch. 4)
- F2** Words in s. 33(1) inserted (E.W.) (7.7.2009) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations \(S.I. 2009/1799\)](#), reg. 28(1), Sch. 2 para. 1(3) (with reg. 28(2))
- F3** Words in s. 33(1)(a) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 4(2)(b)** (with reg. 72, Sch. 4)
- F4** S. 33(1)(b) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 4(2)(c)** (with reg. 72, Sch. 4)
- F5** Words in s. 33(1) inserted (E.W.) (7.7.2009) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations \(S.I. 2009/1799\)](#), reg. 28(1), {Sch. 2 para. 1(3)}
- F6** S. 33(1A)(1B) inserted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 4(3)** (with reg. 72, Sch. 4)
- F7** S. 33(1B) substituted (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 29 para. 6(4)** (with regs. 1(3), 77-79, Sch. 4)
- F8** S. 33(2)(2A) substituted (E.W.) (15.5.2006) for s. 33(2) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), **reg. 2(2)(a)**
- F9** Words in s. 33(4) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, **Sch. 21 para. 4(4)** (with reg. 72, Sch. 4)
- F10** Words in s. 33(6) repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), regs. 73, 74(2), Sch. 21 para. 4(5), **Sch. 23** (with reg. 72, Sch. 4)
- F11** S. 33(7)(b) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 40(1), 108(4)(f), **Sch. 5 Pt. 4** (with s. 40(2))
- F12** S. 33(7)(c) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 64** (with ss. 7(6), 115, 117); [S.I. 1996/186](#), **art. 3**
- F13** S. 33(8) substituted (E.W.) (7.6.2005) for s. 33(8)(9) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 41(1)**, 108(4)(g) (with s. 41(2)(3))
- F14** Words in s. 33(8)(a) inserted (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), **reg. 2(2)(b)**
- F15** Words in s.33(8)(a) substituted (E.W.) (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1** table

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- F16** Words in s. 33(8)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 22(3)(a)** (with reg. 5(1))
- F17** By [The Hazardous Waste \(England and Wales\) Regulations 2005 \(S.I. 2005/894\)](#), regs. 1, **71** (with reg. 75), it is provided that in s. 33(9) the words "hazardous waste" shall be substituted (E.W.) (16.7.2005) for the words "special waste"
- F18** S. 33(9)(10) inserted (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), **reg. 2(2)(c)**
- F19** Words in s. 33(9) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 22(3)(b)** (with reg. 5(1))
- F20** Words in s. 33(13) substituted (E.W.) (20.3.2019) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/620\)](#), regs. 1(2)(a), **2(2)**

#### Modifications etc. (not altering text)

- C4** S. 33 restricted (E.) (13.4.2001) by [S.I. 2001/1478](#), **reg. 3(b)**
- C5** Ss. 33-34C applied (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), regs. 1(2), **47(3)** (with regs. 2, 47(2))
- C6** S. 33(1) excluded (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), regs. 1(1), 4(3), **Sch. 3 Pt. 5** (with regs. 1(3), 77-79, Sch. 4)
- C7** S. 33(1)(a) excluded (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **reg. 68**, Sch. 3 Pt. 2 (with reg. 72, Sch. 4)
- C8** S. 33(1)(a)-(c) amended (1.5.1994) by [S.I. 1994/1056](#), regs. 1(3), 19, **Sch. 4 Pt. 1 para. 9(3)-(5)**  
S. 33(1)(a)-(c) excluded (1.5.1994) by [S.I. 1994/1056](#), **reg. 16**
- C9** S. 33(1)(a)(b) excluded (1.5.1994) by [S.I. 1994/1056](#), **reg. 17**  
S. 33(1)(a)(b) modified (27.7.1999) by [1999 c. 24](#), **s. 4(6)(8)**  
S. 33(1)(a)(b) excluded (E.W.) (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), **reg. 13**
- C10** S. 33(1)(a) excluded (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), regs. 1(1)(b), **68** (with Sch. 4)
- C11** S. 33(5) amended (1.5.1994) by [S.I. 1994/1056](#), regs. 1(3), 19, **Sch. 4 Pt. 1 para. 9(3)**
- C12** S. 33(6) restricted (27.7.1999) by [1999 c. 24](#), **s. 4(7)(8)**

#### Commencement Information

- I2** S. 33 not in force at Royal Assent, see s. 164(3); s. 33(3)(4) in force at 13.12.1991, s. 33(1)(c) in force at 1.4.1992 and s. 33(2)(6)-(9) in force for certain purposes at 1.4.1992 by [S.I. 1991/2829](#), **arts. 2, 4**; s. 33 in force in so far as not already in force at 1.5.1994 save for purposes of application to activities specified in art. 2(2) of the commencing S.I. and otherwise in force in relation to those activities in accordance with art. 3 of the commencing S.I. by [S.I. 1994/1096](#), **arts. 2(2)(3), 3** (as amended by [S.I. 1994/2487](#), **art. 2** and [S.I. 1994/3234](#), **art. 2**)

### 33 Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste. **S**

- (1) Subject to subsection (2) [<sup>F21</sup>, (2B)] and (3) below <sup>F22</sup>... a person shall not—
- deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence;
  - treat, keep or dispose of controlled waste, or knowingly cause or knowingly permit controlled waste to be treated, kept or disposed of—

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- (i) in or on any land, or
    - (ii) by means of any mobile plant,

except under and in accordance with a waste management licence;
  - (c) [<sup>F23</sup>keep or manage] controlled waste in a manner likely to cause pollution of the environment or harm to human health.
- [<sup>F24</sup>(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.]
- [<sup>F25</sup>(2B) Paragraphs (a) and (b) of subsection (1) above do not apply to the deposit or keeping of a waste portable battery or accumulator at a collection point set up to comply with Article 8(1)(a) of Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators [<sup>F26</sup>as last amended by Directive (EU) 2018/849 of the European Parliament and of the Council] (in this section, “the Batteries Directive”).
- (2C) In subsection (2B) above, “portable battery or accumulator” has the meaning given by Article 3(3) of the Batteries Directive, but does not include any battery or accumulator excluded from the scope of that Directive by Article 2(2).]
- [<sup>F27</sup>(2D) When interpreting the Batteries Directive for the purposes of this section, Article 2(2) is to be read as though for the words “Member States” there were substituted “the United Kingdom’s”.]
- (3) Subsection (1)(a), (b) or (c) above do not apply in cases prescribed in regulations made by the Secretary of State and the regulations may make different exceptions for different areas.
  - (4) The Secretary of State, in exercising his power under subsection (3) above, shall have regard in particular to the expediency of excluding from the controls imposed by waste management licences—
    - (a) any deposits which are small enough or of such a temporary nature that they may be so excluded;
    - (b) any means of treatment or disposal which are innocuous enough to be so excluded;
    - (c) cases for which adequate controls are provided by another enactment than this section.
  - (5) Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a) above, be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.
  - (6) A person who contravenes subsection (1) above or any condition of a waste management licence commits an offence.
  - (7) It shall be a defence for a person charged with an offence under this section to prove—
    - (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
    - (b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the acts done by him constituted a contravention of subsection (1) above; or

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- <sup>F28</sup>[(c) that the acts alleged to constitute the contravention were done in an emergency in order to avoid danger to human health in a case where—
- (i) he took all such steps as were reasonably practicable in the circumstances for minimising pollution of the environment and harm to human health; and
  - (ii) particulars of the acts were furnished to the waste regulation authority as soon as reasonably practicable after they were done.]
- (8) Except in a case falling within subsection (9) [<sup>F29</sup>or (10)] below, a person who commits an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding [<sup>F30</sup>£40,000] or both; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (9) A person who commits an offence under this section in relation to special waste [<sup>F31</sup>(other than household waste of the description specified in subsection (10) below)] shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding [<sup>F30</sup>£40,000] or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both.
- [<sup>F32</sup>(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.]
- [<sup>F33</sup>(11) In subsection (4)(c) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

#### 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

- F21** Words in s. 33(1) inserted (S.) (6.7.2009) by The Waste Batteries (Scotland) Regulations (S.S.I. 2009/247), {reg. 3(2)}
- F22** Words in s. 33(1) repealed (1.4.2015 for S.) by Environment Act 1995 (c. 25), s. 125(3), Sch. 24 (with ss. 7(6), 115, 117); S.S.I. 2015/73, art. 2(2)(a)
- F23** Words in s. 33(1)(c) substituted (S.) (27.3.2011) by The Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), regs. 1(1), 2(3)
- F24** S. 33(2)(2A) substituted (S.) (21.1.2005) for s. 33(2) by The Waste (Scotland) Regulations 2005 (S.S.I. 2005/22), regs. 1(1), 3(2)(a)
- F25** S. 33(2B)(2C) inserted (S.) (6.7.2009) by The Waste Batteries (Scotland) Regulations (S.S.I. 2009/247), {reg. 3(3)}
- F26** Words in s. 33(2B) inserted (S.) (4.12.2020) by The Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/314), regs. 1(1), 2(2)

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- F27** S. 33(2D) inserted (S.) (31.12.2020) by The Environment (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/26), regs. 1, **12(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** S. 33(7)(c) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 64** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F29** Words in s. 33(8) inserted (S.) (21.1.2005) by The Waste (Scotland) Regulations 2005 (S.S.I. 2005/22), regs. 1(1), **3(2)(b)**
- F30** Words in s. 33(8)(a)(9)(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(3)**; S.S.I. 2004/420, **art. 3**, Sch. 1
- F31** Words in s. 33(9) inserted (S.) (21.1.2005) by The Waste (Scotland) Regulations 2005 (S.S.I. 2005/22), regs. 1(1), **3(2)(c)**
- F32** S. 33(10) added (S.) (21.1.2005) by The Waste (Scotland) Regulations 2005 (S.S.I. 2005/22), regs. 1(1), **3(2)(d)**
- F33** S. 33(11) added (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 40(2)**; S.S.I. 2014/160, art. 2(1)(2), sch.

#### Modifications etc. (not altering text)

- C6** S. 33(1) excluded (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), regs. 1(1), 4(3), **Sch. 3 Pt. 5** (with regs. 1(3), 77-79, Sch. 4)
- C13** S. 33 restricted (E.) (13.4.2001) by S.I. 2001/1478, **reg. 3(b)**
- C14** S. 33(1)(a)-(c) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. 1 para. 9(3)-(5)**  
S. 33(1)(a)-(c) excluded (1.5.1994) by S.I. 1994/1056, **reg. 16**
- C15** S. 33(1)(a)(b) excluded (1.5.1994) by S.I. 1994/1056, **reg. 17**  
S. 33(1)(a)(b) modified (27.7.1999) by 1999 c. 24, s. **4(6)(8)**
- C16** S. 33(5) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. 1 para. 9(3)**
- C17** S. 33(6) restricted (27.7.1999) by 1999 c. 24, s. **4(7)(8)**

#### Commencement Information

- I3** S. 33 not in force at Royal Assent, see s. 164(3); s. 33(3)(4) in force at 13.12.1991, s. 33(1)(c) in force at 1.4.1992 and s. 33(2)(6)-(9) in force for certain purposes at 1.4.1992 by S.I. 1991/2829, **arts. 2, 4**; s. 33 in force in so far as not already in force at 1.5.1994 save for purposes of application to activities specified in art. 2(2) of the commencing S.I. and otherwise in force in relation to those activities in accordance with art. 3 of the commencing S.I. by S.I. 1994/1096, **arts. 2(2)(3)**, 3 (as amended by S.I. 1994/2487, **art. 2** and S.I. 1994/3234, **art. 2**)

**Status:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34D and cross-heading inserted by [2016 anaw 3 s. 66\(1\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 46(5A) inserted by [S.I. 2023/1290 reg. 8](#)
- s. 47(5A) inserted by [S.I. 2023/1290 reg. 9](#)
- s. 73A(10) inserted by [S.I. 2024/365 reg. 2\(b\)\(vi\)](#)
- s. 73ZA inserted by [S.I. 2024/365 reg. 2\(a\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)