
STATUTORY INSTRUMENTS

2006 No. 3311

**The Controls on Dangerous Substances
and Preparations Regulations 2006**

PART 4

Offences and penalties

CHAPTER 1

Regulations 3 and 5

Offences

11. It is an offence for a person—

- (a) to contravene the restriction in regulation 3; or
- (b) to contravene paragraphs (5)(b) or (6) of regulation 5,

or cause or permit another person to do so.

Penalties

12. Any person guilty of an offence under regulation 11 shall be liable—

- (a) on summary conviction, to a fine which shall not exceed the statutory maximum or to imprisonment not exceeding three months, or both;
- (b) on conviction on indictment, to a fine or to imprisonment not exceeding two years, or both.

CHAPTER 2

Regulation 9 and Schedule 3

Offences

13.—(1) It is an offence for a person—

- (a) intentionally to obstruct an authorised person in the exercise or performance of his powers or duties; or
- (b) to make a statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular, where the statement is made in purported compliance with a requirement to furnish any information imposed by or under these Regulations.

(2) It is an offence for a person, without reasonable excuse—

- (a) to fail to comply with—
 - (i) any requirement under the powers in Part 1 or 2 of Schedule 3;
 - (ii) any notice made under Part 4 of Schedule 3;

- (b) to fail or refuse to provide facilities or assistance or to permit any inspection reasonably required by an authorised person under or by virtue of those powers; or
 - (c) to prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer, pursuant to the powers in Part 1 or 2 of Schedule 3.
- (3) It is an offence for a person falsely to pretend to be an authorised person.
- (4) In this regulation, “powers or duties” includes powers or duties exercisable by virtue of a warrant under paragraph 11 of Schedule 3.

Penalties

- 14.—**(1) A person guilty of an offence under regulation 13 shall be liable—
- (a) in the case of an offence of obstructing an authorised person in the execution of his powers under Part 3 (seizure in cases of imminent danger of serious pollution) of Schedule 3—
 - (i) on summary conviction, to a fine not exceeding the statutory maximum;
 - (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both;
 - and
 - (b) in any other case, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (2) A person guilty of an offence under regulation 13(2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

CHAPTER 3

Bodies corporate, Scottish partnerships and remediation

Bodies corporate and Scottish partnerships

- 15.—**(1) Where an offence under this Part committed by a body corporate is shown—
- (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on his part,
- the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) “Officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) Where an offence under this Part committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he, as well as the partnership shall be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.
- (5) In paragraph (4) “partner” includes a person purporting to act as a partner.

Power of court to order cause of offence to be remedied

- 16.—**(1) Where a person is convicted of an offence under this Part 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 paragraph (1) 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 extended under this paragraph, as the case may be.

(3) Where a person is ordered under paragraph (1) to remedy any matters, that person shall not be liable under regulation 12 or 14 in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).