



Control of Pollution (Amendment) Act 1989

1989 CHAPTER 14

3 Restrictions on power under section 2.

- (1) Nothing in any regulations under section 2 above shall authorise a [^{F1}disposal authority][^{F1}regulation authority] to refuse an application for registration except where—
 - (a) there has, in relation to that application, been a contravention of the requirements of any regulations made by virtue of subsection (2)(a) of that section; or
 - (b) the applicant or another relevant person has been convicted of a prescribed offence and, in the opinion of the authority, it is undesirable for the applicant to be authorised to transport controlled waste.
- (2) Nothing in any regulations under section 2 above shall authorise any [^{F1}disposal authority][^{F1}regulation authority] to revoke any person's registration as a carrier of controlled waste except [^{F2} in accordance with regulations under subsection (4A) of that section or] where—
 - (a) that person or another relevant person has been convicted of a prescribed offence; and
 - (b) in the opinion of the authority, it is undesirable for the registered carrier to continue to be authorised to transport controlled waste;but registration in accordance with any regulations under that section shall cease to have effect after such period as may be prescribed or if the registered carrier gives written notice requiring the removal of his name from the register.
- (3) Regulations under section 2 above may require every registration in respect of a business which is or is to be carried on by a partnership to be a registration of all the partners and to cease to have effect if any of the partners ceases to be registered or if any person who is not registered becomes a partner.
- (4) Nothing in any regulations under section 2 above shall have the effect of bringing the revocation of any person's registration as a carrier of controlled waste into force except—

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- (a) after the end of such period as may be prescribed for appealing against the revocation under section 4 below; or
 - (b) where that person has indicated, within that period, that he does not intend to make or continue with an appeal.
- (5) In relation to any applicant for registration or registered carrier, another relevant person shall be treated for the purposes of any provision made by virtue of subsection (1) or (2) above as having been convicted of a prescribed offence if—
- (a) any person has been convicted of a prescribed offence committed by him in the course of his employment by the applicant or registered carrier or in the course of the carrying on of any business by a partnership one of the members of which was the applicant or registered carrier;
 - [^{F3}(aa) a partnership has been convicted of a prescribed offence committed at a time when the applicant or registered carrier was a member of that partnership;]
 - (b) a body corporate has been convicted of a prescribed offence committed at a time when the applicant or registered carrier was a director, manager, secretary or other similar officer of that body corporate; [^{F4}or]
 - [^{F5}(ba) where the applicant or registered carrier is a partnership, a person who is a member of that partnership—
 - (i) has been convicted of a prescribed offence;
 - (ii) was a member of another partnership at a time when a prescribed offence of which that other partnership has been convicted was committed; or
 - (iii) was a director, manager, secretary, or other similar officer of a body corporate at a time when a prescribed offence of which that body corporate has been convicted was committed; or]
 - (c) where the applicant or registered carrier is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—
 - (i) has been convicted of a prescribed offence; [^{F6}or]
 - [^{F7}(ia) was a member of a partnership at a time when a prescribed offence of which that partnership has been convicted was committed; or]
 - (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a prescribed offence [^{F8}of] which that other body corporate has been convicted was committed.
- (6) In determining for the purposes of any provision made by virtue of subsection (1) or (2) above whether it is desirable for any individual to be or to continue to be authorised to transport controlled waste, a [^{F1}disposal authority][^{F1}regulation authority] shall have regard, in a case in which a person other than the individual has been convicted of a prescribed offence, to whether that individual has been a party to the carrying on of a business in a manner involving the commission of prescribed offences.

Textual Amendments

- F1** Words in s. 3(1)(2)(6) 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
- F2** Words in s. 3(2) inserted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 36\(7\)](#), 108(4)
- F3** S. 3(5)(aa) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(a\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.

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- F4** Word in s. 3(5) repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 47(b)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F5** S. 3(5)(ba) inserted (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 47(c)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F6** Word in s. 3(5)(c) repealed (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 47(d)(i)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F7** S. 3(5)(c)(ia) inserted (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 47(d)(ii)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F8** Word in s. 3(5)(c)(ii) substituted (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), **ss. 47(d)(iii)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.

Modifications etc. (not altering text)

- C1** S. 3 modified (E.W.) (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), regs. 1(2), **24(2)** (with regs. 2, 47(2))
- C2** S. 3(5)(6) modified (E.W.) (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), regs. 1(2), **24(3)** (with regs. 2, 47(2))

Commencement Information

- I1** S. 3 wholly in force; s. 3 in force for certain purposes at 16.07.1991 see s. 11(2) and S.I. 1991/1618, **art. 2(b)**; and s. 3 fully in force at 14.10.1991 by S.I. 1991/1618, **art. 3**.

Changes to legislation:

There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989, Section 3.