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*Changes to legislation: Environmental Protection Act 1990, Section 36 is up to date with all changes known to be in force on or before 21 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) View outstanding changes*



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Waste Management Licences*

### 36 Grant of licences. **E+W**

<sup>F1</sup> .....

#### 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**F1** S. 36 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), regs. 73, 74(2), Sch. 21 para. 10, **Sch. 23** (with reg. 72, Sch. 4)

### 36 Grant of licences. **S**

- (1) An application for a licence shall be made—
- (a) in the case of an application for a site licence, to the waste regulation authority in whose area the land is situated; and
  - (b) in the case of an application for a mobile plant licence, to the waste regulation authority in whose area the operator of the plant has his principal place of business;

<sup>F2</sup>and shall be made on a form provided for the purpose by the waste regulation authority and accompanied by such information as that authority reasonably requires and the charge prescribed for the purpose by a charging scheme under section 41 of the Environment Act 1995.

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<sup>F2</sup>(1A) Where an applicant for a licence fails to provide the waste regulation authority with any information required under subsection (1) above, the authority may refuse to proceed with the application, or refuse to proceed with it until the information is provided.]

(2) A licence shall not be issued for a use of land for which planning permission is required in pursuance of the <sup>M1</sup>Town and Country Planning Act 1990 or the <sup>M2</sup>Town and Country Planning (Scotland) Act 1972 unless—

- (a) such planning permission is in force in relation to that use of the land, or
- (b) an established use certificate is in force under section 192 of the said Act of 1990 or section 90 of the said Act of 1972 in relation to that use of the land.

(3) Subject to subsection (2) above and subsection (4) below, a waste regulation authority to which an application for a licence has been duly made shall not reject the application if it is satisfied that the applicant is a fit and proper person unless it is satisfied that its rejection is necessary for the purpose of preventing—

- (a) pollution of the environment;
- (b) harm to human health; or
- (c) serious detriment to the amenities of the locality;

but paragraph (c) above is inapplicable where planning permission is in force in relation to the use to which the land will be put under the licence.

(4) Where the waste regulation authority proposes to issue a licence, the authority must, before it does so,—

- (a) refer the proposal to [<sup>F3</sup>the appropriate planning authority] and the [<sup>F4</sup>safety regulator]; and
- (b) consider any representations about the proposal which the [<sup>F3</sup>authority] or the [<sup>F5</sup>safety regulator] makes to it during the allowed period.

<sup>F6</sup>(5) .....

<sup>F6</sup>(6) .....

(7) Where any part of the land to be used is [<sup>F7</sup>within a site of special scientific interest or any area in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation (Scotland) Act 2004 (asp 6) has effect] and the waste regulation authority proposes to issue a licence, the authority must, before it does so—

- (a) refer the proposal to the appropriate nature conservation body; and
- (b) consider any representations about the proposal which the body makes to it during the allowed period;

and in this section any reference to the appropriate nature conservation body is a reference to [<sup>F8</sup>Natural England], [<sup>F9</sup>Scottish Natural Heritage] or the [<sup>F10</sup>Natural Resources Body for Wales], according as the land is situated in England, Scotland or Wales.

<sup>F11</sup>(8) .....

(9) If within the period of four months beginning with the date on which a waste regulation authority received an application for the grant of a licence, or within such longer period as the authority and the applicant may at any time agree in writing, the authority has neither granted the licence in consequence of the application nor given notice to the

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applicant that the authority has rejected the application, the authority shall be deemed to have rejected the application.

<sup>F12</sup>[(9A) Subsection (9) above—

- (a) shall not have effect in any case where, by virtue of subsection (1A) above, the waste regulation authority refuses to proceed with the application in question, and
- (b) shall have effect in any case where, by virtue of subsection (1A) above, the waste regulation authority refuses to proceed with it until the required information is provided, with the substitution for the period of four months there mentioned of the period of four months beginning with the date on which the authority received the information.]

<sup>F13</sup>[(10) The period allowed to the appropriate planning authority, the [<sup>F14</sup>safety regulator] or the appropriate nature conservancy body for the making of representations under subsection (4) or (7) above about a proposal is the period of twenty-eight days beginning with the day on which the proposal is received by the waste regulation authority or such longer period as the waste regulation authority, the appropriate planning authority, the [<sup>F15</sup>safety regulator] or the body, as the case may be, agree in writing.

(11) In this section—

“the appropriate planning authority” means—

- (a) where the relevant land is situated in the area of a London borough council, that London borough council;
- (b) where the relevant land is situated in the City of London, the Common Council of the City of London;
- (c) where the relevant land is situated in a non-metropolitan county in England, the council of that county;
- (d) where the relevant land is situated in a National Park or the Broads, the National Park authority for that National Park or, as the case may be, the Broads Authority;
- (e) where the relevant land is situated elsewhere in England or Wales, the council of the district or, in Wales, the county or county borough, in which the land is situated;
- (f) where the relevant land is situated in Scotland, the council constituted under section 2 of the <sup>M3</sup>Local Government etc. (Scotland) Act 1994 for the area in which the land is situated;

“the Broads” has the same meaning as in the <sup>M4</sup>Norfolk and Suffolk Broads Act 1988;

“National Park authority”, <sup>F16</sup>. . . means a National Park authority established under section 63 of the Environment Act 1995 which has become the local planning authority for the National Park in question;

“the relevant land” means—

- (a) in relation to a site licence, the land to which the licence relates; and
- (b) in relation to a mobile plant licence, the principal place of business of the operator of the plant to which the licence relates.

<sup>F17</sup>“the safety regulator” means—

- (a) where the relevant land is, or is on, a nuclear site (within the meaning of Part 3 of the Energy Act 2013), the Office for Nuclear Regulation;
- (b) otherwise, the Health and Safety Executive.]

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F18(12) . . . . .

(13) The Secretary of State may by regulations amend the definition of “appropriate planning authority” in subsection (11) above.

(14) This section shall have effect subject to section 36A below.]

#### 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

- F2** In s. 36: words including s. 36(1A) substituted (1.4.1996 for limited purposes and 1.4.1998 in so far as not already in force) for words following para. 36(1)(b) by 1995 c. 25, s. 120(1), **Sch. 22 para. 68(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with saving in art. 4); S.I. 1998/604, **art. 2**.
- F3** Words in s. 36(4)(a)(b) substituted (1.4.1996, subject to a saving with modifications in S.I. 1996/186, **art. 4**, in relation to certain applications for a licence made before 1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 68(3)(a)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F4** Words in s. 36(4)(a) substituted (S.) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 12(2)(a)** (with Sch. 4)
- F5** Words in s. 36(4)(b) substituted (S.) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 12(2)(b)** (with Sch. 4)
- F6** S. 36(5)(6) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 68(4), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F7** Words in s. 36(7) substituted (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 57, 59(2), **Sch. 7 para. 7** (with s. 55); S.S.I. 2004/495, **art. 2**
- F8** Words in s. 36(7) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, **Sch. 11 para. 116**; S.I. 2006/2541, **art. 2**
- F9** Words in s. 36(7) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 4(10), **Sch. 2 para. 10(2)**; S.I. 1991/2633, **art. 4**
- F10** Words in s. 36(7) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 214** (with Sch. 7)
- F11** S. 36(8) repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 164(3), **Sch. 16 Pt. II**; S.S.I. 2015/72, art. 2(2)(f)
- F12** S. 36(9A) inserted (1.4.1998) by 1995 c. 25, s. 120(1), **Sch. 22 para. 68(5)** (with ss. 7(6), 115, 117); S.I. 1998/604, **art. 2**.
- F13** S. 36(10)-(14) substituted (1.4.1996) for s. 36(10) by 1995 c. 25, s. 120(1), **Sch. 22 para. 68(6)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with saving in art. 4)
- F14** Words in s. 36(10) substituted (S.) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 12(3)(a)** (with Sch. 4)
- F15** Words in s. 36(10) substituted (S.) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 12(3)(b)** (with Sch. 4)
- F16** S. 36(11): words in the definition of "National Park" repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F17** Words in s. 36(11) inserted (S.) (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 12(4)** (with Sch. 4)

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**F18** S. 36(12) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

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

**C4** S. 36(2)(a) extended (S.) (27.5.1997) by 1997 c. 8, **ss. 150(7)(c), 278(2)**

**C5** S. 36(3) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 9(7)**

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**Commencement Information**

**I2** S. 36 partly in force; s. 36 not in force at Royal Assent see. s. 164(3); s. 36(1) in force at 18.2.1993 by S.I. 1993/274, **art. 2(1)**

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**Marginal Citations**

**M1** 1990 c. 8.

**M2** 1972 c. 52.

**M3** 1994 c. 39.

**M4** 1988 c. 4.

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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. 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. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)