



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Supplemental

74 Meaning of “fit and proper person”.

- [^{F1}(1) The following provisions apply for the purposes of the discharge by a waste regulation authority of any function under this Part which requires the authority to determine whether a person is or is not a fit and proper person to hold a waste management licence.
- (2) Whether a person is or is not a fit and proper person to hold a licence is to be determined by reference to the carrying on by him of the activities which are or are to be authorised by the licence and the fulfilment of the requirements of the licence.
- (3) Subject to subsection (4) below, a person shall be treated as not being a fit and proper person if it appears to the authority—
- (a) that he or another relevant person has been convicted of a relevant offence;
 - (b) that the management of the activities which are or are to be authorised by the licence are not or will not be in the hands of a technically competent person; or
 - (c) that the person who holds or is to hold the licence has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the licence.
- (4) The authority may, if it considers it proper to do so in any particular case, treat a person as a fit and proper person notwithstanding that subsection (3)(a) above applies in his case.
- (5) It shall be the duty of waste regulation authorities to have regard to any guidance issued to them by the Secretary of State with respect to the discharge of their functions of making the determinations to which this section applies.

Changes to legislation: Environmental Protection Act 1990, Section 74 is up to date with all changes known to be in force on or before 22 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

- (6) The Secretary of State may, by regulations, prescribe the offences that are relevant for the purposes of subsection (3)(a) above and the qualifications and experience required of a person for the purposes of subsection (3)(b) above.
- (7) For the purposes of subsection (3)(a) above, another relevant person shall be treated, in relation to the licence holder or proposed licence holder, as the case may be, as having been convicted of a relevant offence if—
- (a) any person has been convicted of a relevant offence committed by him in the course of his employment by the holder or, as the case may be, the proposed holder of the licence or in the course of the carrying on of any business by a partnership one of the members of which was the holder or, as the case may be, the proposed holder of the licence;
 - [^{F2}(aa) a partnership has been convicted of a relevant offence committed when the holder or, as the case may be, proposed holder of the licence was a member of that partnership;]
 - (b) a body corporate has been convicted of a relevant offence committed when the holder or, as the case may be, the proposed holder of the licence was a director, manager, secretary or other similar officer of that body corporate; ^{F3} ...
 - [^{F4}(ba) where the holder or, as the case may be, proposed holder of the licence is a partnership, a person who is a member of that partnership—
 - (i) has been convicted of a relevant offence;
 - (ii) was a member of another partnership at a time when a relevant 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 relevant offence of which that body corporate has been convicted was committed; or]
 - (c) where the holder or, as the case may be, the proposed holder of the licence 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 relevant offence; ^{F5} ...
 - [^{F6}(ia) was a member of a partnership at a time when a relevant 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 relevant offence [^{F7}of] which that other body corporate has been convicted was committed.]

Textual Amendments

- F1** S. 74 repealed (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 73, Sch. 21 para. 17, **Sch. 23** (with reg. 72, Sch. 4)
- F2** S. 74(7)(aa) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. **48(a)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.
- F3** Word in s. 74(7) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. **48(b)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.
- F4** S. 74(7)(ba) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. **48(c)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.
- F5** Word in s. 74(7)(c) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. **48(d)(i)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.
- F6** S. 74(7)(c)(ia) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), ss. **48(d)(ii)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.

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F7 Word in s. 74(7)(c)(ii) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 48(d)(iii)**, 61(2); S.S.I. 2014/160, art. 2(1)(2), sch.

Modifications etc. (not altering text)

C1 Pt. 2 modified (S.) (27.3.2011) by [The Waste Management Licensing \(Scotland\) Regulations 2011](#) (S.S.I. 2011/228), reg. 1(1), **sch. 4 para. 11** (with regs. 31-33)

Commencement Information

I1 S. 74 wholly in force at 1.5.1994; s. 74 not in force at Royal Assent, see s. 164(3); s. 74(6) in force at 18.2.1993 by [S.I. 1993/274](#), **art. 2(1)**; s. 74 in force in so far as not already in force at 1.5.1994 by [S.I. 1994/1096](#), **art. 2(1)**

Changes to legislation:

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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\(4\)](#)