



# Health and Safety at Work etc. Act 1974

## 1974 CHAPTER 37

### PART I

#### HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

##### *Provisions as to offences*

### 38 Restrictions on institution of proceedings in England and Wales.

Proceedings for an offence under any of the relevant statutory provisions shall not, in England and Wales, be instituted except by an inspector or [<sup>F1</sup>the Environment Agency or]by or with the consent of the Director of Public Prosecutions.

#### Textual Amendments

**F1** Words in s. 38 inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(7)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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

**C1** S. 38 applied by S.I. 1989/840, **arts. 2-10**

S. 38 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**

S. 38 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**

Ss. 18(6)(7)(b), 19-22, 23(1)(2)(5), 24-26, 33(1)(e)-(h)(o)(2)(2A)(3)(4)(e), 34(3)-(5), 35, 36(1)(2), 37-39, 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**

S. 38: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(i), 5** (with s. 3(5))

Ss. 18-27, 33(1)(e)-(i)(n)(o)(2)-(4), 34(2)-(6), 36(1), 37-42, 46 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**

Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**

Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**

Ss. 16-26, 33-42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**

*Status: Point in time view as at 01/07/1998. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the*  
*Health and Safety at Work etc. Act 1974, Section 38. (See end of Document for details)*

- C2** S. 38 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**  
 S. 38 applied (15.2.1999) by 1998 c. 17, s. **20(3)** (with s. 9(1)(2), Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)(2)**
- C3** Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C4** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(d)** (with reg. 20(2)(3))
- C5** Ss. 33-42 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**  
 Ss. 33-42 applied (20.9.2001) by S.I. 2001/2975, **reg. 19(d)**
- C6** S. 38 applied (with modifications) (29.11.1999) by S.I. 1999/2001, reg. 24(1), **Sch. 8 para. 1(b)**
- C7** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)  
 Ss. 33-42 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(b)**  
 Ss. 33-42 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C8** S. 38 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(a)(3)**
- C9** S. 38 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 38 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 38 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 38 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C10** Ss. 37-41 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(h)** (subject to art. 4(4)-(6) and with art. 7)
- C11** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C12** Ss. 33-42 applied (with modifications) (E.W.) (12.8.2009 with application in accordance with reg. 3 of the amending S.I.) by The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009 (S.I. 2009/1927), **reg. 9(1)**
- C13** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), **reg. 6(2)(3)(g)**
- C14** Ss. 37-41 applied (with modifications) (E.W.S.) (6.4.2010) by The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), **regs. 1(2), 38(2)(3)(g)**
- C15** S. 38 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1, 18, 37(1), Sch. 4 paras. 1, 2**

**Status:**

Point in time view as at 01/07/1998. This version of this provision has been superseded.

**Changes to legislation:**

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