



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Supplemental*

#### **73 Appeals and other provisions relating to legal proceedings and civil liability.**

- (1) An appeal against any decision of a magistrates' court under this Part (other than a decision made in criminal proceedings) shall lie to the Crown Court at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Crown Court by virtue of any other enactment.
- (2) In Scotland an appeal against any decision of the sheriff under this Part (other than a decision made in criminal proceedings) shall lie to the Court of Session at the instance of any party to the proceedings in which the decision was given if such an appeal does not lie to the Court of Session by virtue of any other enactment.
- (3) Where a person appeals to the Crown Court or the Court of Session against a decision of a magistrates' court or the sheriff dismissing an appeal against any requirement imposed under this Part which was suspended pending determination of that appeal, the requirement shall again be suspended pending the determination of the appeal to the Crown Court or Court of Session.
- (4) Where an appeal against a decision of any authority lies to a magistrates' court or to the sheriff by virtue of any provision of this Part, it shall be the duty of the authority to include in any document by which it notifies the decision to the person concerned a statement indicating that such an appeal lies and specifying the time within which it must be brought.
- (5) Where on an appeal to any court against or arising out of a decision of any authority under this Part the court varies or reverses the decision it shall be the duty of the authority to act in accordance with the court's decision.

*Status: Point in time view as at 27/09/2021.*

*Changes to legislation: Environmental Protection Act 1990, Section 73 is up to date with all changes known to be in force on or before 24 August 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)*

- (6) Where any damage is caused by waste which has been deposited in or on land, any person who deposited it, or knowingly caused or knowingly permitted it to be deposited, in either case so as to commit an offence under section 33(1) or 63(2) above, is liable for the damage except where the damage—
- (a) was due wholly to the fault of the person who suffered it; or
  - (b) was suffered by a person who voluntarily accepted the risk of the damage being caused;
- but without prejudice to any liability arising otherwise than under this subsection.
- (7) The matters which may be proved by way of defence under section 33(7) above may be proved also by way of defence to an action brought under subsection (6) above.
- (8) In subsection (6) above—
- “damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition); and
- “fault” has the same meaning as in the <sup>M1</sup>Law Reform (Contributory Negligence) Act 1945.
- (9) For the purposes of the following enactments—
- (a) the <sup>M2</sup>Fatal Accidents Act 1976;
  - (b) the Law Reform (Contributory Negligence) Act 1945; and
  - (c) the <sup>M3</sup>Limitation Act 1980;
- and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (6) above shall be treated as due to his fault.
- [<sup>F1</sup>(10) In subsection (2) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

#### Extent Information

**E1** For extent see s. 164(4)(5).

#### Textual Amendments

**F1** S. 73(10) added (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\), s. 61\(2\), sch. 3 para. 40\(5\)](#); 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. 73 wholly in force at 1.5.1994; s. 73 not in force at Royal Assent, see s. 164(3); s. 73(1)-(5) in force at 1.4.1992 by S.I. 1992/266, art. 3; s. 73 in force in so far as not already in force at 1.5.1994 by S.I. 1994/1096, [art. 2\(1\)](#)

#### Marginal Citations

**M1** 1945 c. 28.

**M2** 1976 c. 30.

**M3** 1980 c. 58.

**Status:**

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