



# 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*

### 33 Offences.

- (1) It is an offence for a person—
- (a) to fail to discharge a duty to which he is subject by virtue of sections 2 to 7;
  - (b) to contravene section 8 or 9;
  - (c) to contravene any health and safety regulations <sup>F1</sup> . . . or any requirement or prohibition imposed under any such regulations (including any requirement or prohibition to which he is subject by virtue of the terms of or any condition or restriction attached to any licence, approval, exemption or other authority issued, given or granted under the regulations);
  - (d) to contravene any requirement imposed by or under regulations under section 14 or intentionally to obstruct any person in the exercise of his powers under that section;
  - (e) to contravene any requirement imposed by an inspector under section 20 or 25;
  - (f) to prevent or attempt to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of section 20(2) require an answer;
  - (g) to contravene any requirement or prohibition imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal);
  - (h) intentionally to obstruct an inspector in the exercise or performance of his powers or duties [<sup>F2</sup> or to obstruct a customs officer in the exercise of his powers under section 25A];
  - (i) to contravene any requirement imposed by a notice under section 27(1);

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- (j) to use or disclose any information in contravention of section 27(4) or 28;
  - (k) to make a statement which he knows to be false or recklessly to make a statement which is false where the statement is made—
    - (i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions; or
    - (ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person;
  - (l) intentionally to make a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, to make use of any such entry which he knows to be false;
  - (m) with intent to deceive, to [<sup>F3</sup>forge or] use a document issued or authorised to be issued under any of the relevant statutory provisions or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be calculated to deceive;
  - (n) falsely to pretend to be an inspector;
  - (o) to fail to comply with an order made by a court under section 42.
- [<sup>F4</sup>(2) Schedule 3A (which specifies the mode of trial and maximum penalty applicable to offences under this section and the existing statutory provisions) has effect.
- (3) Schedule 3A is subject to any provision made by virtue of section 15(6)(c) or (d).]
- <sup>F5</sup>(5) .....
- <sup>F6</sup>(6) .....

#### Textual Amendments

- F1** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F2** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 6**
- F3** Words repealed (E.W.N.I.) by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**
- F4** S. 33(2)(3) substituted (16.1.2009) for s. 33(1A)-(4) by [Health and Safety \(Offences\) Act 2008 \(c. 20\)](#), **ss. 1(1), 3(2)** (with s. 3(3))
- F5** S. 33(5) repealed (E.W.S.) (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\)](#), ss. 4(5)(6), 7(2), **Sch.2**
- F6** S. 33(6) repealed by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**

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

- C1** S. 33 applied by [S.I. 1989/840](#), **arts. 2, 10**  
 S. 33 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), **reg. 10 S. 33** excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#), **regs. 7, 9**  
 S. 33 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), **reg. 15, Sch. 14 para. 1(b)**  
 S. 33 applied (with modifications) (1.7.1997) by [S.I. 1997/831](#), **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 33 applied (15.11.2000) by [S.I. 2000/2831](#), **reg. 26(1)(a)**
- C2** S. 33 extended (with modifications) (12.4.1999) by [S.I. 1999/743](#), **reg. 20(1)(d)(2)(3) S. 33** applied (20.9.2001) by [S.I. 2001/2975](#), **reg. 19(d)**  
 S. 33 applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), **reg. 14(1)(b)**  
 S. 33 applied (16.5.2002) by [S.I. 2002/1166](#), **reg. 31** (with art. 37)
- C3** S. 33 applied (with modifications) (19.11.1999) by [S.I. 1999/2892](#), **reg. 16(1)**
- C4** S. 33 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), **reg. 24(1), Sch. 8 para. 1(b)**
- C5** S. 33 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)**)

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- C6** S. 33 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 33 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 33 applied (2.4.2006) by S.I. 2006/397, **reg. 34(2)(d)**
- C7** 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)**)
- C8** 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)}
- C9** Ss. 33-35 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}
- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(1), 8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(4), 19** (with reg. 3(4)(5)313233(1))
- C13** Ss. 33-35 applied (with modifications) (E.W.S.) (1.10.2014) by The Explosives Regulations 2014 (S.I. 2014/1638), **reg. 1(1)**, Sch. 12 paras. 2, **3**
- C14** Ss. 33-42 applied (1.10.2014) by The Genetically Modified Organisms (Contained Use) Regulations 2014 (S.I. 2014/1663), **regs. 1, 30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(2), 17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), **regs. 1(1), 27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), **regs. 1, 36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), **regs. 1, 36(1)(d)** (with reg. 4(2), Sch. 14)
- C19** S. 33 applied (with modifications) (17.8.2015) by The Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553), **reg. 1, Sch. 8 paras. 1(n), 2**
- C20** Ss. 33-35 applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by The Explosives Regulations 2014 (Amendment) Regulations 2016 (S.I. 2016/315), **reg. 1, Sch. 1** (with regs. 2(1), 15))
- C21** S. 33(1)(c) restricted (12.4.1999) by S.I. 1999/743, **reg. 20(2)**  
S. 33(1)(c) excluded (16.5.2002) by S.I. 2002/1166, **reg. 31(4)** (with art. 37) S. 33(1)(c) modified (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(4)**
- C22** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C23** S. 33(1)(c) 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)** (with reg. 6(4)(5))
- C24** S. 33(1)(c) 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)** (with reg. 38(4)(5))
- C25** S. 33(1)(c)(e)-(h)(j)-(o) applied (with modifications) (16.1.2012) by The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **regs. 1(2), 39(2)(3)(g)** (with reg. 3)
- C26** S. 33(1)(c) excluded (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), **regs. 2(4), 21** (with reg. 3(4)(5)31)

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- C27** S. 33(1)(c) excluded (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), regs. 1, **30(4)** (with reg. 3(1)(2))
- C28** S. 33(1)(c) applied (E.W.S.) (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), regs. 1(1), **27(4)** (with regs. 3(2), 27(3))
- C29** S. 33(1)(e) 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)**
- C30** S. 33(1)(e) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(e) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**
- C31** S. 33(1)(e)-(h) 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)** (with reg. 6(4)(5))
- C32** S. 33(1)(e)-(h) 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)** (with reg. 38(4)(5))
- C33** S. 33(1)(f) 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)**
- C34** S. 33(1)(f) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)
- C35** Ss. 33(1)(f) applied (9.1.1995) by [S.I. 1994/3260](#), **reg. 17(3)(5)**
- C36** S. 33(1)(f): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f)**, 5 (with s. 3(5))
- C37** S. 33(1)(f) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(f) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**
- C38** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C39** S. 33(1)(g) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)
- C40** S. 33(1)(g) applied (9.1.1995) by [S.I. 1994/3260](#), **reg. 17(3)(5)**
- C41** S. 33(1)(g): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f)**, 5 (with s. 3(5))
- C42** S. 33(1)(g) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(g) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**
- C43** S. 33(1)(g): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f)**, 5 (with s. 3(5))
- C44** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C45** S. 33(1)(h) 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)**
- C46** S. 33(1)(h) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)
- C47** Ss. 33(1)(h) applied (9.1.1995) by [S.I. 1994/3260](#), **reg. 17(3)(5)**
- C48** S. 33(1)(h): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f)**, 5 (with s. 3(5))
- C49** Ss. 33(1)(h) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(h) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**
- C50** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C51** S. 33(1)(i) 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)**
- C52** S. 33(1)(i) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)
- C53** S. 33(1)(i): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f)**, 5 (with s. 3(5))
- C54** S. 33(1)(i) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(i) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**
- C55** S. 33(1)(j) 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)**
- C56** S. 33(1)(j) modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)
- C57** S. 33(1)(j): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(f)**, 5 (with s. 3(5))
- C58** S. 33(1)(j)-(o) 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)** (with reg. 6(4)(5))

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- C59** S. 33(1)(j)-(o) 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)** (with reg. 38(4)(5))
- C60** S. 33(1)(k) 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)**
- C61** S. 33(1)(k) modified (6.4.1992) by [S.I. 1992/711](#), regs. **1(2)**, 28(3)(b)(5)(a)
- C62** S. 33(1)(l) 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)**
- C63** S. 33(1)(l) modified (6.4.1992) by [S.I. 1992/711](#), regs. **1(2)**, 28(3)(b)(5)(a)
- C64** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C65** S. 33(1)(m) 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)**
- C66** S. 33(1)(m) modified (6.4.1992) by [S.I. 1992/711](#), regs. **1(2)**, 28(3)(b)(5)(a)
- C67** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C68** S. 33(1)(n) 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)**
- C69** S. 33(1)(n): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, ss. **2(4)(f)**, 5 (with s. 3(5))
- C70** S. 33(1)(n) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(n) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), reg. **17**
- C71** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)
- C72** S. 33(1)(o) 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)**
- C73** Ss. 33(1)(o) applied (9.1.1995) by [S.I. 1994/3260](#), reg. **17(3)(5)**
- C74** S. 33(1)(o): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, ss. **2(4)(f)**, 5 (with s. 3(5))
- C75** S. 33(1)(o) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), reg. 17; s. 33(1)(o) applied (with modifications) (9.6.2004) by [S.I. 2004/1309](#), reg. **17**
- C76** S. 33(1)(c) (e)-(h) (k)-(o) (2) (2A) (3) 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 (4)-(6)) (with art. 7)

### 34 Extension of time for bringing summary proceedings.

(1) Where—

- (a) a special report on any matter to which section 14 of this Act applies is made by virtue of subsection [F<sup>7</sup>(2)] of that section; or
- (b) a report is made by the person holding an inquiry into any such matter by virtue of subsection [F<sup>8</sup>(2A)] of that section; or
- (c) [F<sup>9</sup>an investigation under Part 1 of the Coroners and Justice Act 2009 is conducted into]the death of any person whose death may have been caused by an accident which happened while he was at work or by a disease which he contracted or probably contracted at work or by any accident, act or omission which occurred in connection with the work of any person whatsoever; or
- (d) a public inquiry into any death that may have been so caused is held under [F<sup>10</sup>the M<sup>1</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976], and it appears [F<sup>11</sup>from the report or investigation or, in a case falling within paragraph (d) above, from the proceedings at the]inquiry, that any of the relevant

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statutory provisions was contravened at a time which is material in relation to the subject-matter of the<sup>F12</sup>report, investigation or inquiry ], summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the making of the report or, in a case falling within paragraph (c) or (d) above, within three months of the <sup>F13</sup>conclusion of the investigation ]or inquiry.

- (2) Where an offence under any of the relevant statutory provisions is committed by reason of a failure to do something at or within a time fixed by or under any of those provisions, the offence shall be deemed to continue until that thing is done.
- (3) Summary proceedings for an offence to which this subsection applies may be commenced at any time within six months from the date on which there comes to the knowledge of a responsible enforcing authority evidence sufficient in the opinion of that authority to justify a prosecution for that offence; and for the purposes of this subsection—
  - (a) a certificate of an enforcing authority stating that such evidence came to its knowledge on a specified date shall be conclusive evidence of that fact; and
  - (b) a document purporting to be such a certificate and to be signed by or on behalf of the enforcing authority in question shall be presumed to be such a certificate unless the contrary is proved.
- (4) The preceding subsection applies to any offence under any of the relevant statutory provisions which a person commits by virtue of any provision or requirement to which he is subject as the designer, manufacturer, importer or supplier of any thing; and in that subsection “responsible enforcing authority” means an enforcing authority within whose field of responsibility the offence in question lies, whether by virtue of section 35 or otherwise.
- (5) In the application of subsection (3) above to Scotland—
  - (a) for the words from “there comes” to “that offence” there shall be substituted the words “evidence, sufficient in the opinion of the enforcing authority to justify a report to the Lord Advocate with a view to consideration of the question of prosecution, comes to the knowledge of the authority”;
  - (b) at the end of paragraph (b) there shall be added the words “and
  - (c) section <sup>F14</sup>331(3) of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975] (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.”
- <sup>F15</sup>( 6 ) In the application of subsection (4) above to Scotland, after the words “applies to” there shall be inserted the words “any offence under section 33(1)(c) above where the health and safety regulations concerned were made for the general purpose mentioned in section 18(1) of the Gas Act 1986 and”.]

#### Textual Amendments

- F7** Words in s. 34(1)(a) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 13\(a\)](#) (with [art. 21](#), [Sch. 2](#))
- F8** Words in s. 34(1)(b) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 13\(b\)](#) (with [art. 21](#), [Sch. 2](#))
- F9** Words in s. 34(1)(c) substituted (25.7.2013) by [Coroners and Justice Act 2009 \(c. 25\)](#), [s. 182\(4\)\(e\)](#), [Sch. 21 para. 25\(2\)](#) (with [s. 180](#)); [S.I. 2013/1869](#), [art. 2\(o\)\(xi\)](#)
- F10** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 17\(2\)\(a\)](#)

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

- F11** Words in s. 34(1) substituted (25.7.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(4)(e), **Sch. 21 para. 25(3)** (with s. 180); S.I. 2013/1869, art. 2(o)(xi)
- F12** Words in s. 34(1) substituted (25.7.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(4)(e), **Sch. 21 para. 25(4)** (with s. 180); S.I. 2013/1869, art. 2(o)(xi)
- F13** Words in s. 34(1) substituted (25.7.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(4)(e), **Sch. 21 para. 25(5)** (with s. 180); S.I. 2013/1869, art. 2(o)(xi)
- F14** Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 9 para. 51**
- F15** S. 34(6) inserted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 18**

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

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C13** Ss. 33-35 applied (with modifications) (E.W.S.) (1.10.2014) by The Explosives Regulations 2014 (S.I. 2014/1638), reg. 1(1), **Sch. 12 paras. 2, 3**
- C14** Ss. 33-42 applied (1.10.2014) by The Genetically Modified Organisms (Contained Use) Regulations 2014 (S.I. 2014/1663), reg. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), regs. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)
- C20** Ss. 33-35 applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by The Explosives Regulations 2014 (Amendment) Regulations 2016 (S.I. 2016/315), reg. 1, **Sch. 1** (with regs. 2(1), 15))
- C77** 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)}
- C78** 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)**)
- C79** S. 34 applied by S.I. 1989/840, **arts. 2-10**  
 S. 34 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 34 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 34 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, reg. 15, **Sch. 14 para. 1(b)**  
 S. 34 applied (with modifications) (1.7.1997) by S.I. 1997/831, reg. 19(1)-(4), **Sch. 15 para. 1(a)(b)**  
 S. 34 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C80** Ss. 33-35 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**
- C81** S. 34 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 3(e)(i)**
- C82** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)(d)**, (2)(3)
- C83** 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)**
- C84** Ss. 34 applied (with modifications) (29.11.1999) by S.I. 1999/2001, reg. 24(1), **Sch. 8 para. 1(b)**  
 S. 34 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(b)**

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- S. 34 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C85** S. 34 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)**)
- C86** S. 34 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**  
 S. 34 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**  
 S. 34 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C87** Ss. 33-35 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}
- C88** S. 34 applied (with modifications) (17.8.2015) by **The Pyrotechnic Articles (Safety) Regulations 2015** (S.I. 2015/1553), **reg. 1, Sch. 8 paras. 1(o), 2**
- C89** S. 34(1)(c) 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 (4)-(6)) (with art. 7)
- C90** S. 34(1)(d) 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 (4)-(6)) (with art. 7)
- C91** S. 34(2) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C92** S. 34(2)-(6): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(g), 5** (with s. 3(5))
- C93** S. 34 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C94** S. 34(2)-(5) 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 (4)-(6)) (with art. 7)
- C95** S. 34(2) 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)**
- C96** S. 34(2) 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)**
- C97** S. 34(2)-(5) applied (with modifications) (16.1.2012) by **The Railways (Interoperability) Regulations 2011** (S.I. 2011/3066), **regs. 1(2), 39(2)(3)(g)** (with reg. 3)
- C98** S. 34(3) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C99** S. 34(3)(4)(5) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**  
 S. 34(3)(4)(5) applied (with modifications) (18.7.1995) by S.I. 1995/1629, **reg. 30(3)(b)(5)**
- C100** S. 34(3) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C101** S. 34(3) applied (with modifications) (E.W.S.) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)**
- C102** S. 34(2)-(5) 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 (4)-(6)) (with art. 7)
- C103** S. 34(4) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C104** S. 34(4) applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C105** S. 34(4) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**  
 S. 34(4) applied (with modifications) (18.7.1995) by S.I. 1995/1629, **reg. 30(3)(b)(5)**
- C106** S. 34(4) applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C107** S. 34(4) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C108** S. 34(2)-(5) 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 (4)-(6)) (with art. 7)
- C109** S. 34(5) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C110** S. 34(5) modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**  
 S. 34(5) applied (with modifications) (18.7.1995) by S.I. 1995/1629, **reg. 30(3)(b)(5)**
- C111** S. 34(5) applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C112** S. 34(5) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**



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- C113** S. 34(2)-(5) 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 [\(4\)-\(6\)](#)) (with [art. 7](#))
- C114** S. 34(6) applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), [reg. 17](#)
- C115** S. 34(6) applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)

#### Marginal Citations

- M1** 1976 c. 14.
- M2** 1975 c. 21.

### 35 Venue.

An offence under any of the relevant statutory provisions committed in connection with any plant or substance may, if necessary for the purpose of bringing the offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for the offence, be treated as having been committed at the place where that plant or substance is for the time being.

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

- C10** Ss. 1-59 applied by [S.I. 2001/2127 art. 8A 8B](#) (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#)), [arts. 1\(1\), 3\(2\)](#))
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), [regs. 2\(1\), 8\(1\)](#) (with [reg. 3\(4\), \(5\), 8\(2\)-\(7\), 31, 32, 33\(1\)](#))
- C12** Ss. 33-42 applied (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), [regs. 2\(4\), 19](#) (with [reg. 3\(4\)\(5\)313233\(1\)](#))
- C13** Ss. 33-35 applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), [reg. 1\(1\), Sch. 12 paras. 2, 3](#)
- C14** Ss. 33-42 applied (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), [regs. 1, 30\(2\)\(a\)](#) (with [reg. 3\(1\)\(2\)](#))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), [regs. 2\(2\), 17\(1\)](#) (with [reg. 3\(4\)\(5\)313233\(1\)](#))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), [regs. 1\(1\), 27\(1\)\(d\)](#) (with [regs. 3\(2\), 27\(3\)](#))
- C17** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), [regs. 1, 36\(8\)\(d\)](#) (with [reg. 4\(2\), Sch. 14](#))
- C18** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), [regs. 1, 36\(1\)\(d\)](#) (with [reg. 4\(2\), Sch. 14](#))
- C20** Ss. 33-35 applied (with modifications) by [S.I. 2014/1638, Sch. 12 paras. 5-7](#) (as substituted (E.W.S.) (20.4.2016) by [The Explosives Regulations 2014 \(Amendment\) Regulations 2016 \(S.I. 2016/315\)](#), [reg. 1, Sch. 1](#) (with [regs. 2\(1\), 15](#)))
- C116** S. 35 applied by [S.I. 1989/840, arts. 2-10](#)
- S. 35 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)
- S. 35 applied (with modifications) (E.W.S.) (9.1.1995) by [S.I. 1994/3260, reg. 17\(3\)\(5\)](#)
- S. 35: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(a\), 5](#) (with [s. 3\(5\)](#))
- S. 35 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192, reg. 15, Sch. 14 para. 1\(b\) S. 35](#) applied (with modifications) (1.7.1997) by [S.I. 1997/831, reg. 19\(1\)-\(4\), Sch. 15 para. 1\(a\)\(b\)](#)
- S. 35 applied (15.11.2000) by [S.I. 2000/2831, reg. 26\(1\)\(a\)](#)
- C117** Ss. 35 applied (with modifications) (1.1.1993) by [S.I. 1992/3073, reg. 28, Sch. 6 para. 1\(b\)](#)

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- C118** Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C119** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1), (2)(3)**
- C120** 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)**
- C121** Ss. 33-35 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**  
 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)
- C122** Ss. 1-59, 80-82 applied (E.W.S.) (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)**)
- C123** S. 35 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)**
- C124** S. 35 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 35 applied  
 (E.W.S.) (22.4.2005) by S.I. 2005/928 {reg. 4(2)(3)(5)(6)}; s. 35 applied (2.4.2006) by S.I. 2006/397,  
 {reg. 34(3)(d)}
- C125** S. 35 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 (4)-(6)) (with art. 7)
- C126** 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)**)
- C127** 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)}**
- C128** S. 35 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)**
- C129** Ss. 33-35 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}**
- C130** S. 35 applied (with modifications) (17.8.2015) by **The Pyrotechnic Articles (Safety) Regulations 2015**  
**(S.I. 2015/1553), reg. 1, Sch. 8 paras. 1(p), 2**

### 36 Offences due to fault of other person.

- (1) Where the commission by any person of an offence under any of the relevant statutory provisions is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (2) Where there would be or have been the commission of an offence under section 33 by the Crown but for the circumstance that that section does not bind the Crown, and that fact is due to the act or default of a person other than the Crown, that person shall be guilty of the offence which, but for that circumstance, the Crown would be committing or would have committed, and may be charged with and convicted of that offence accordingly.
- (3) The preceding provisions of this section are subject to any provision made by virtue of section 15(6).

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### Modifications etc. (not altering text)

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C14** Ss. 33-42 applied (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), regs. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), regs. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), regs. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), regs. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)
- C131** S. 36 applied by S.I. 1989/840, **arts. 2-10**  
S. 36 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
S. 36 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10 S. 36** applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C132** S. 36 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2)**, 28(3)(b)(5)(a)
- C133** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)**, (2)(3)
- C134** 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)**
- C135** S. 36 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)**)  
S. 36 applied (E.W.S.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(b)**  
S. 36 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C136** S. 36 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)**
- C137** S. 36 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 36 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 36 applied (2.4.2006) by S.I. 2006/397, **reg. 34**
- C138** 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)**)
- C139** 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)}
- C140** S. 36(1)(2) applied (with modifications) (1.1.1993) by S.I.1992/3073, **reg. 28, Sch. 6 para. 1(c)**
- C141** 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)**
- C142** S. 36(1): power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(h)**, 5 (with s. 3(5))
- C143** S. 36(1) applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**
- C144** Ss. 36(1)(2), 37 applied (with modifications) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(c)**
- C145** S. 36(1) applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**

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

- C146** S. 36(1) 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 (4)-(6)) (with art. 7)
- C147** S. 36(1)(2) 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)**
- C148** S. 36(1)(2) 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)**
- C149** S. 36(1)(2) 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}
- C150** S. 36(1)(2) applied (with modifications) (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), regs. 1(2), **39(2)(3)(g)** (with reg. 3)
- C151** S. 36(1) applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), **reg. 1(1)**, Sch. 12 paras. 2, 3
- C152** S. 36(1)(2) applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by [The Explosives Regulations 2014 \(Amendment\) Regulations 2016 \(S.I. 2016/315\)](#), **reg. 1, Sch. 1** (with regs. 2(1), 15))
- C153** S. 36 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**
- C154** S. 36(2) 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 (4)-(6)) (with art. 7)
- C155** S. 36(2) applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), **reg. 1(1)**, Sch. 12 paras. 2, 3

### 37 Offences by bodies corporate.

- (1) Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C14** Ss. 33-42 applied (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), regs. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))

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

- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), regs. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)
- C156** S. 37 applied by S.I. 1989/840, **arts. 2-10**  
 S. 37 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 37 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. 37: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(h), 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. 16-26, 33-42, 47 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C157** S. 37 applied by S.I. 1990/556, **reg. 5(2)**
- C158** S. 37 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(c)**  
 Ss. 36(1)(2), 37 applied (with modifications) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(c)**
- C159** Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C160** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1), (2)(3)**
- C161** Ss. 33-42 applied (with modifications) (19.11.1999) by S.I. 1999/2892, **reg. 16(1)**
- C162** 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)**)
- C163** Ss. 33-42 applied (20.9.2001) by S.I. 2001/2975, **reg. 19(d)**  
 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)
- C164** S. 37 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)**
- C165** S. 37 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 37 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 37 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; ss. 37 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C166** 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 (4)-(6)) (with art. 7)
- C167** 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)**)
- C168** 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)}
- C169** 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)**
- C170** 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)**
- C171** S. 37 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}
- C172** Ss. 37-41 applied (with modifications) (16.1.2012) by The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **regs. 1(2), 39(2)(3)(g)** (with reg. 3)
- C173** S. 37 applied (with modifications) (E.W.S.) (1.10.2014) by The Explosives Regulations 2014 (S.I. 2014/1638), **reg. 1(1), Sch. 12 paras. 2, 3**

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**C174** S. 37 applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by [The Explosives Regulations 2014 \(Amendment\) Regulations 2016 \(S.I. 2016/315\)](#), reg. 1, **Sch. 1** (with regs. 2(1), 15))

### 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 [<sup>F16</sup>, the Environment Agency or the Natural Resources Body for Wales] by or with the consent of the Director of Public Prosecutions.

#### Textual Amendments

**F16** Words in s. 38 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 113** (with Sch. 7)

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

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C14** Ss. 33-42 applied (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), reg. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), reg. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), reg. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), reg. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)
- C172** Ss. 37-41 applied (with modifications) (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), reg. 1(2), **39(2)(3)(g)** (with reg. 3)
- C175** 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)**
- C176** S. 38 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**

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- 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)
- C177 Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, regs. 1(2), 28(3)(b)(5)(a)
- C178 Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, reg. 20(1)(d), (2)(3)
- C179 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)
- C180 S. 38 applied (with modifications) (29.11.1999) by S.I. 1999/2001, reg. 24(1), Sch. 8 para. 1(b)
- C181 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)
- C182 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)
- C183 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)
- C184 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 (4)-(6)) (with art. 7)
- C185 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))
- C186 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)}
- C187 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)
- C188 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)
- C189 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}
- C190 S. 38 applied (with modifications) (E.W.S.) (1.10.2014) by The Explosives Regulations 2014 (S.I. 2014/1638), reg. 1(1), Sch. 12 paras. 2, 3
- C191 S. 38 applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by The Explosives Regulations 2014 (Amendment) Regulations 2016 (S.I. 2016/315), reg. 1, Sch. 1 (with regs. 2(1), 15))

### 39 Prosecutions by inspectors.

- (1) An inspector, if authorised in that behalf by the enforcing authority which appointed him, may, although not of counsel or a solicitor, prosecute before a magistrates' court proceedings for an offence under any of the relevant statutory provisions.
- (2) This section shall not apply to Scotland.

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

- C10 Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), arts. 1(1), 3(2))

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

- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C14** Ss. 33-42 applied (1.10.2014) by The Genetically Modified Organisms (Contained Use) Regulations 2014 (S.I. 2014/1663), regs. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), regs. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)
- C172** Ss. 37-41 applied (with modifications) (16.1.2012) by The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), regs. 1(2), **39(2)(3)(g)** (with reg. 3)
- C192** S. 39 applied by S.I. 1989/840, **arts. 2-10**  
 S. 39 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 39 extended (E.W.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 39 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**  
 S. 39: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(i), 5** (with s. 3(5))  
 S. 39 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17 S. 39** applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, reg. 15, **Sch. 14 para. 1(b)**  
 S. 39 applied (with modifications) (1.7.1997) by S.I. 1997/831, reg. 19(1)-(4), **Sch. 15 para. 1(a)(b)**  
 S. 39 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C193** S. 39 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**
- C194** Ss. 35-39 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C195** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1), (2)(3)**
- C196** 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)**
- C197** S. 39 applied (with modifications) (29.11.1999) by S.I. 1999/2001, reg. 24(1), **Sch. 8 para. 1(b)**
- C198** S. 39 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)**)  
 S. 39 applied (E.W.) (24.7.2002) by S.I. 2002/1689, **reg. 14(1)(b)**  
 S. 39 applied (16.5.2002) by S.I. 2002/1166, **reg. 31** (with art. 37)
- C199** S. 39 applied (with modifications) (E.W.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; ss. 39 applied (with modifications) (E.W.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 39 applied (E.W.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 39 applied (E.W.) (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C200** 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 (4)-(6)) (with art. 7)
- C201** 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)**)
- C202** 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)}
- C203** 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)**
- C204** 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)**



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- C205** S. 39 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}
- C206** S. 39 applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), **reg. 1(1)**, **Sch. 12 paras. 2, 3**
- C207** S. 39 applied (with modifications) (17.8.2015) by [The Pyrotechnic Articles \(Safety\) Regulations 2015 \(S.I. 2015/1553\)](#), **reg. 1, Sch. 8 paras. 1(q), 2**
- C208** S. 39 applied (with modifications) by S.I. 2014/1638, Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by [The Explosives Regulations 2014 \(Amendment\) Regulations 2016 \(S.I. 2016/315\)](#)), **reg. 1, Sch. 1** (with **regs. 2(1), 15**)

#### 40 Onus of proving limits of what is practicable etc.

In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

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

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#)), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), **regs. 2(1), 8(1)** (with **reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1)**)
- C12** Ss. 33-42 applied (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), **regs. 2(4), 19** (with **reg. 3(4)(5)313233(1)**)
- C14** Ss. 33-42 applied (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), **regs. 1, 30(2)(a)** (with **reg. 3(1)(2)**)
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), **regs. 2(2), 17(1)** (with **reg. 3(4)(5)313233(1)**)
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), **regs. 1(1), 27(1)(d)** (with **regs. 3(2), 27(3)**)
- C17** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), **regs. 1, 36(8)(d)** (with **reg. 4(2), Sch. 14**)
- C18** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), **regs. 1, 36(1)(d)** (with **reg. 4(2), Sch. 14**)
- C172** Ss. 37-41 applied (with modifications) (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), **regs. 1(2), 39(2)(3)(g)** (with **reg. 3**)
- C209** S. 40 applied by S.I. 1989/840, **arts. 2-10**  
 S. 40 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 40: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(j), 5** (with s. 3(5))  
 S. 40 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**  
 S. 40 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C210** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1)**, (2)(3)
- C211** 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)**

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- C212** 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)
- C213** S. 40 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; s. 40 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 40 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 40 applied (E.W.S.) (2.4.2006) by S.I. 2006/397, **reg. 34(3)(c)**
- C214** 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 (4)-(6)) (with art. 7)
- C215** 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)**)
- C216** 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)}
- C217** 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)**
- C218** 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)**

#### 41 Evidence.

- (1) Where an entry is required by any of the relevant statutory provisions to be made in any register or other record, the entry, if made, shall, as against the person by or on whose behalf it was made, be admissible as evidence or in Scotland sufficient evidence of the facts stated therein.
- (2) Where an entry which is so required to be so made with respect to the observance of any of the relevant statutory provisions has not been made, that fact shall be admissible as evidence or in Scotland sufficient evidence that that provision has not been observed.

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

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C14** Ss. 33-42 applied (1.10.2014) by The Genetically Modified Organisms (Contained Use) Regulations 2014 (S.I. 2014/1663), regs. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), regs. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (S.I. 2015/398), regs. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)

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- C18** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), regs. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)
- C172** Ss. 37-41 applied (with modifications) (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), regs. 1(2), **39(2)(3)(g)** (with reg. 3)
- C219** S. 41 applied by [S.I. 1989/840](#), **arts. 2-10**  
 S. 41: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), **ss. 2(4)(j)**, 5 (with s. 3(5))  
 S. 41 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), **reg. 17**  
 S. 41 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), reg. 15, **Sch. 14 para. 1(b)**  
 S. 41 applied (with modifications) (1.7.1997) by [S.I. 1997/831](#), reg. 19(1)-(4), **Sch. 15 para. 1(a)(b)**  
 S. 41 applied (15.11.2000) by [S.I. 2000/2831](#), **reg. 26(1)(a)**
- C220** S. 41 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), reg. 28, **Sch. 6 para. 1(b)**
- C221** S. 41 modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a).
- C222** Ss. 33-42 applied (with modifications) (1.4.1999) by [S.I. 1999/743](#), **reg. 20(1)**, (2)(3)
- C223** 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)**
- C224** S. 41 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), reg. 24(1), **Sch. 8 para. 1(b)**
- C225** 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)
- C226** S. 41 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), **reg. 23(3)(e)**; s. 41 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), **reg. 17**; s. 41 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), **reg. 4(2)(3)(5)(6)**; s. 41 applied (2.4.2006) by [S.I. 2006/397](#), **reg. 34(3)(d)**
- C227** 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 (4)-(6)) (with art. 7)
- C228** 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)**)
- C229** 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)}
- C230** 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)**
- C231** 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)**
- C232** S. 41 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}
- C233** S. 41 applied (with modifications) (E.W.S.) (1.10.2014) by [The Explosives Regulations 2014 \(S.I. 2014/1638\)](#), **reg. 1(1)**, Sch. 12 paras. 2, 3
- C234** S. 41 applied (with modifications) (17.8.2015) by [The Pyrotechnic Articles \(Safety\) Regulations 2015 \(S.I. 2015/1553\)](#), **reg. 1**, Sch. 8 paras. 1(r), 2
- C235** S. 41 applied (with modifications) by [S.I. 2014/1638](#), Sch. 12 paras. 5-7 (as substituted (E.W.S.) (20.4.2016) by [The Explosives Regulations 2014 \(Amendment\) Regulations 2016 \(S.I. 2016/315\)](#), **reg. 1**, **Sch. 1** (with regs. 2(1), 15))

#### **42 Power of court to order cause of offence to be remedied or, in certain cases, forfeiture.**

- (1) Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to be matters which it

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is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

- (2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this subsection, as the case may be.
- (3) Where a person is ordered under subsection (1) above to remedy any matters, that person shall not be liable under any of the relevant statutory provisions in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under subsection (2) above.
- [<sup>F17</sup>(3A) Subsection (4) applies where a person is convicted of an offence consisting of acquiring or attempting to acquire, possessing or using an explosive article or substance (within the meaning of any of the relevant statutory provisions) in contravention of any of the relevant statutory provisions.]
- (4) Subject to the following subsection, the court by or before which [<sup>F18</sup>the person is convicted of the offence] may order the article or substance in question to be forfeited and either destroyed or dealt with in such other manner as the court may order.
- (5) The court shall not order anything to be forfeited under the preceding subsection where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

#### Textual Amendments

- F17** S. 42(3A) inserted (16.1.2009) by [Health and Safety \(Offences\) Act 2008 \(c. 20\)](#), ss. 2, 3(2), **Sch. 3 para. 2(2)** (with s. 3(3))
- F18** Words in s. 42(4) substituted (16.1.2009) by [Health and Safety \(Offences\) Act 2008 \(c. 20\)](#), ss. 2(1), 3(2), **Sch. 3 para. 2(3)** (with s. 3(3))

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

- C10** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C11** Ss. 33-42 applied (with modifications) (E.W.S.) (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(1), **8(1)** (with reg. 3(4), (5), 8(2)-(7), 31, 32, 33(1))
- C12** Ss. 33-42 applied (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)313233(1))
- C14** Ss. 33-42 applied (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), regs. 1, **30(2)(a)** (with reg. 3(1)(2))
- C15** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(2), **17(1)** (with reg. 3(4)(5)313233(1))
- C16** Ss. 33-42 applied (with modifications) (E.W.S.) (1.6.2015) by [The Control of Major Accident Hazards Regulations 2015 \(S.I. 2015/483\)](#), regs. 1(1), **27(1)(d)** (with regs. 3(2), 27(3))
- C17** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), regs. 1, **36(8)(d)** (with reg. 4(2), Sch. 14)
- C18** Ss. 33-42 applied (19.7.2015) by [The Offshore Installations \(Offshore Safety Directive\) \(Safety Case etc.\) Regulations 2015 \(S.I. 2015/398\)](#), regs. 1, **36(1)(d)** (with reg. 4(2), Sch. 14)

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- C236** S. 42 applied by S.I. 1989/840, **arts. 2-10**  
 S. 42 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 42 applied (with modifications) (9.1.1995) by S.I. 1994/3260, **reg. 17(3)(5)**  
 S. 42: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(k), 5** (with s. 3(5))  
 S. 42 applied (with modifications) (E.W.S.) (16.4.1996) by S.I. 1996/772, **reg. 17**  
 S. 42 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
 S. 42 applied (with modifications) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 42 applied (15.11.2000) by S.I. 2000/2831, **reg. 26(1)(a)**
- C237** S. 42 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C238** S. 42 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**.
- C239** Ss. 33-42 applied (with modifications) (1.4.1999) by S.I. 1999/743, **reg. 20(1), (2)(3)**
- C240** 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)**
- C241** S. 42 applied (with modifications) (29.11.1999) by S.I. 1999/2001, **reg. 24(1), Sch. 8 para. 1(b)**
- C242** 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)
- C243** S. 42 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)**; s. 42 applied (with modifications) (E.W.S.) (3.5.2004) by S.I. 2004/129, **reg. 23(3)(e)**; ss. 37-42 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**; s. 42 applied (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)(3)(5)(6)**; s. 42 applied (2.4.2006) by S.I. 2006/397, **reg. 34(3)(d)**
- C244** 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)**)
- C245** 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)}
- C246** S. 42 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}
- C247** S. 42 applied (with modifications) (1.10.2014) by The Explosives Regulations 2014 (S.I. 2014/1638), **reg. 1(1), Sch. 12 paras. 2, 3**
- C248** S. 42 applied (with modifications) (17.8.2015) by The Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553), **reg. 1, Sch. 8 paras. 1(s), 2**
- C249** S. 42 applied (with modifications) by S.I. 2014/1638, **Sch. 12 paras. 5-7** (as substituted (E.W.S.) (20.4.2016) by The Explosives Regulations 2014 (Amendment) Regulations 2016 (S.I. 2016/315), **reg. 1, Sch. 1** (with **regs. 2(1), 15**))
- C250** S. 42(1) extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**
- C251** S. 42(1)-(3) 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 (4)-(6)) (with art. 7)
- C252** S. 42(1)-(3) 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)**
- C253** S. 42(1)-(3) 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)**
- C254** S. 42(1)-(3) applied (with modifications) (16.1.2012) by The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **regs. 1(2), 39(2)(3)(g)** (with reg. 3)
- C255** S. 42(2) extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**
- C256** S. 42(1)-(3) 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 (4)-(6)) (with art. 7)

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**C257** S. 42(3) extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10](#)

**C258** S. 42(1)-(3) 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 [\(4\)-\(6\)](#)) (with art. 7)

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