



Control of Pollution Act 1974

1974 CHAPTER 40

PART V **E+W+S**

SUPPLEMENTARY PROVISIONS

Legal proceedings

^{F1}88 **Civil liability for contravention of s. 3(3).** **E+W+S**

- (1) Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it or caused or knowingly permitted it to be deposited, in either case so as to commit an offence under section 3(3) or by virtue of section 18(2) of this Act, 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 thereof.
- (2) The matters which under paragraphs (a) to (c) of subsection (4) of section 3 of this Act may be proved by way of defence to a charge of committing an offence under subsection (3) of that section may be proved also by way of defence to an action brought by virtue of the preceding subsection (the reference in the said paragraph (a) to the charge being construed as a reference to the act alleged to give rise to the liability).
- (3) In this section—

“damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);

“fault” has the same meaning as in the ^{M1}Law Reform (Contributory Negligence) Act 1945; and

“land” includes such water as is mentioned in section 4(4) of this Act.
- (4) For the purposes of the following enactments, namely—
 - (a) the Fatal Accidents Acts 1846 to 1959;
 - (b) the ^{M2}Law Reform (Contributory Negligence) Act 1945; and
 - ^{F2}(c) the ^{M3}Limitation Act 1980]

Changes to legislation: There are currently no known outstanding effects for the Control of Pollution Act 1974, Section 88. (See end of Document for details)

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 (1) of this section shall be treated as due to his fault.

- (5) Subsection (1) of this section is without prejudice to any liability which arises apart from the provisions of this section.

Textual Amendments

- F1** S. 88 repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **Sch. 3 para. 16(2)(r)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F2** S. 88(4)(c) substituted by [Limitation Act 1980 \(c. 58\)](#), **Sch. 3 para. 12**
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Modifications etc. (not altering text)

- C1** S. 88(4)(a) extended by [Fatal Accidents Act 1976 \(c. 30\)](#), **Sch. 1 para. 2**
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Marginal Citations

- M1** 1945 c. 28.
M2 1945 c. 28.
M3 1980 c. 58.

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