



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Prohibition on unauthorised or harmful depositing, treatment or disposal of waste

[^{F1}33A Section 33 offences: investigation and enforcement costs **E+W**

- [^{F2}(1) This section applies where a person is convicted of an offence—
- (a) under section 33 above, in respect of a contravention of subsection (1) of that section;
 - (b) under [^{F3}regulation 38(1) of the Environmental Permitting Regulations], in respect of a waste operation[^{F4} or a mining waste operation].]
- (2) The court by or before which the offender is convicted may make an order requiring him to pay to an enforcement authority a sum which appears to the court not to exceed the costs arising from—
- (a) investigations of the enforcement authority which resulted in the conviction; and
 - (b) the seizure by the enforcement authority under section 34B below of a vehicle involved in the offence.
- (3) The costs arising from the seizure of a vehicle as specified in subsection (2)(b) above may include the cost of disposing of the contents of the vehicle.
- (4) The power of a court to make an order under this section is in addition to its power to make an order under section 18 of the Prosecution of Offences Act 1985 (award of costs against accused).
- (5) In this section “enforcement authority” means the Environment Agency [^{F5}, the Natural Resources Body for Wales] or a waste collection authority.]

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent

Changes to legislation: Environmental Protection Act 1990, Section 33A is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** S. 33A inserted (E.W.) (18.10.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 42(1)**, 108 (with [s. 42\(2\)](#)); [S.I. 2005/2896](#), **art. 2(a)**
- F2** S. 33A(1) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **reg. 73**, **Sch. 21 para. 5** (with [reg. 72](#), [Sch. 4](#))
- F3** Words in s. 33A(1)(b) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), **regs. 1(1)(b)**, 107, **Sch. 26 para. 5(6)(a)** (with [Sch. 4](#))
- F4** Words in s. 33A(1) inserted (E.W.) (7.7.2009) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations \(S.I. 2009/1799\)](#), **reg. 28**, {[Sch. 2 para. 1\(4\)](#)}
- F5** Words in s. 33A(5) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 209** (with [Sch. 7](#))

Modifications etc. (not altering text)

- C4** Ss. 33-34C applied (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), **regs. 1(2)**, **47(3)** (with [regs. 2](#), [47\(2\)](#))

[^{F6}33A Fixed penalty notices for contraventions of section 33(1)(a) and (c): Scotland **S**

- (1) Where—
- (a) an authorised [^{F7}person or a constable] has reason to believe that a person has committed a relevant offence ^{F8} ...
 - (b) ^{F8} ...
- he may give that person a notice under this section in respect of the offence.
- (2) In subsection (1) above, “relevant offence” means an offence under section 33 above in respect of a contravention of subsection (1)(a) or (c) of that section.
- (3) A notice under this section is a notice offering the opportunity, by paying a fixed penalty, of discharging any liability to conviction for the offence to which it relates.
- (4) Where—
- (a) a constable; ^{F9}...
- ^{F9}
- gives a notice under this section to a person, he shall, no later than 24 hours after the giving of the notice, send a copy of it to the local authority in whose area the offence was committed.
- (5) Where a person is given a notice under this section in respect of an offence—
- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and
 - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (6) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and shall state—
- (a) the period during which, by virtue of subsection (5)(a) above, proceedings will not be taken for the offence;
 - (b) the amount of the fixed penalty; and
 - (c) the person to whom and the address at which the fixed penalty may be paid;

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and without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(7) Where a letter is sent in accordance with subsection (6) above payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of notices under this section shall be such as the Scottish Ministers may by order prescribe.

[If an authorised person proposes to give a person a notice under this section, the ^{F10}(8A) authorised person may require the person to give him his name and address.]

[A person commits an offence if he fails to give his name and address when required ^{F10}(8B) to do so under subsection (8A) above.]

[A person who commits an offence under subsection (8B) above is liable on summary ^{F10}(8C) conviction to a fine not exceeding level 3 on the standard scale.]

(9) The fixed penalty payable in pursuance of a notice under this section shall, subject to subsection (10) below, be [^{F11}£500].

(10) The Scottish Ministers may by order substitute a different amount (not exceeding level 2 on the standard scale) for the amount for the time being specified as the amount of the fixed penalty in subsection (9) above.

(11) In any proceedings a certificate which—

- (a) purports to be signed by or on behalf of [^{F12}a proper officer]; and
- (b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

[In subsection (11) above, “proper officer” means—

- ^{F13}(11A) (a) in a case where a notice under this section is given by an officer of a local authority authorised as mentioned in paragraph (a) of the definition of “authorised person” in subsection (13) below, the officer who has, as respects the authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (financial administration);
- (b) in a case where a notice under this section is given by an officer of Loch Lomond and The Trossachs National Park Authority authorised as mentioned in paragraph (b) of that definition, the proper officer for that Authority appointed under paragraph 12(3) of schedule 2 to the National Parks (Scotland) Act 2000.]

(12) A fixed penalty payable in pursuance of a notice under this section shall be payable—

- (a) [^{F14}in a case such as is mentioned in paragraph (a) of subsection (11A) above,] to the local authority in whose area the offence was committed; and as respects the sums received by a local authority, those sums shall [^{F15}accrue to that authority].

[in a case such as is mentioned in paragraph (b) of that subsection, to Loch ^{F16}(b) Lomond and The Trossachs National Park Authority; and as respects the sums received by that Authority, those sums shall accrue to that Authority.]

(13) In this section—

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[^{F17}“authorised person” means

- (a) an officer of a local authority who is authorised in writing by the authority for the purpose of issuing notices under this section in relation to a relevant offence committed in the area of the authority;
- (b) an officer of Loch Lomond and The Trossachs National Park Authority who is authorised in writing by the Authority for the purpose of issuing notices under this section in relation to a relevant offence committed in the area designated as the National Park for which the Authority is established; or
- (c) such other persons as may be specified by order made by the Scottish Ministers.]

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39); and “area”, in relation to a local authority, means the local government area (within the meaning of that Act) for which the council is constituted;

^{F18} ...

[^{F19}(13A) The Scottish Ministers may by order make such modifications of this section as they consider necessary or expedient in connection with the specification of a person by an order under paragraph (c) of the definition of “authorised person” in subsection (13) above.

[^{F19}(13B) An order under subsection (13A) above may include provision—

- (a) applying any provision of this section to such a person with such modifications as may be specified in the order;
- (b) for any such provision not to apply in relation to such a person.]]]

Textual Amendments

- F6** S. 33A inserted (S.) (5.11.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), **ss. 55**, [145\(2\)](#); S.S.I. 2004/420, **art. 3**, **Sch. 2**
- F7** Words in s. 33A(1)(a) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(a)(i)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F8** Words in s. 33A(1) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(a)(ii)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F9** S. 33A(4)(b) and word repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(b)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F10** S. 33A(8A)-(8C) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(c)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F11** Sum in s. 33A(9) substituted (S.) (1.1.2024) by [The Fly-tipping \(Fixed Penalty\) \(Scotland\) Order 2023 \(S.S.I. 2023/335\)](#), [arts. 1, 2](#)
- F12** Words in s. 33A(11)(a) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(d)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F13** S. 33A(11A) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(e)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F14** Words in s. 33A(12) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(f)(i)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)
- F15** Words in s. 33A(12) substituted (S) (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 80, 84](#), **Sch. para. 8(a)**; S.S.I. 2008/42, **art. 3(1)**, [Sch.](#)
- F16** S. 33A(12)(b) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [s. 61\(2\)](#), **sch. 3 para. 11(2)(f)(ii)**; S.S.I. 2014/160, [art. 2\(1\)\(2\)](#), [sch.](#)

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- F17** Words in s. 33A(13) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 11\(2\)\(g\)\(i\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.
- F18** Words in s. 33A(13) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 11\(2\)\(g\)\(ii\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.
- F19** S. 33A(13A)(13B) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [sch. 3 para. 11\(2\)\(h\)](#); S.S.I. 2014/160, art. 2(1)(2), sch.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)