



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Collection, disposal or treatment of controlled waste*

#### **59 Powers to require removal of waste unlawfully deposited.**

- (1) If any controlled waste [<sup>F1</sup>or extractive waste] is deposited in or on any land in the area of a waste regulation authority or waste collection authority in contravention of section 33(1) above [<sup>F2</sup>or regulation 12 of [<sup>F3</sup>the Environmental Permitting Regulations]], the authority may, by notice served on him, require the occupier to do either or both of the following, that is—
  - (a) to remove the waste from the land within a specified period not less than a period of twenty-one days beginning with the service of the notice;
  - (b) to take within such a period specified steps with a view to eliminating or reducing the consequences of the deposit of the waste.
- (2) A person on whom any requirements are imposed under subsection (1) above may, within the period of twenty-one days mentioned in that subsection, appeal against the requirement to a magistrates' court or, in Scotland, to the sheriff by way of summary application.
- (3) On any appeal under subsection (2) above the court shall quash the requirement if it is satisfied that—
  - (a) the appellant neither deposited nor knowingly caused nor knowingly permitted the deposit of the waste; or
  - (b) there is a material defect in the notice;and in any other case shall either modify the requirement or dismiss the appeal.
- (4) Where a person appeals against any requirement imposed under subsection (1) above, the requirement shall be of no effect pending the determination of the appeal; and

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where the court modifies the requirement or dismisses the appeal it may extend the period specified in the notice.

- (5) If a person on whom a requirement imposed under subsection (1) above fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and to a further fine of an amount equal to [<sup>F4</sup>one-tenth of level 5 on the standard scale][<sup>F4</sup>one-tenth of the greater of £5,000 or level 4 on the standard scale] for each day on which the failure continues after conviction of the offence and before the authority has begun to exercise its powers under subsection (6) below.
- (6) Where a person on whom a requirement has been imposed under subsection (1) above by an authority fails to comply with the requirement the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.
- (7) If it appears to a waste regulation authority or waste collection authority that waste has been deposited in or on any land in contravention of section 33(1) above [<sup>F5</sup>or regulation 12 of [<sup>F3</sup>the Environmental Permitting Regulations],] and that—
- (a) in order to remove or prevent pollution of land, water or air or harm to human health it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; or
  - (b) there is no occupier of the land [<sup>F6</sup>or the occupier cannot be found without the authority incurring unreasonable expense]; or
  - (c) the occupier neither made nor knowingly permitted the deposit of the waste;
- the authority may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps.
- (8) Where an authority exercises any of the powers conferred on it by subsection (7) above it shall be entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste—
- (a) in a case falling within subsection (7)(a) above, from the occupier of the land unless he proves that he neither made nor knowingly caused nor knowingly permitted the deposit of the waste;
  - (b) in any case, from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste;
- except such of the cost as the occupier or that person shows was incurred unnecessarily.
- [<sup>F7</sup>(8A) An authority may not recover costs under subsection (8) above if [<sup>F8</sup>a compensation order (within the meaning given by section 133 of the Sentencing Code) has been made] in favour of the authority in respect of any part of those costs.
- (8B) Subsection (8A) does not apply if the order is set aside on appeal.]
- [<sup>F9</sup>(8C) An authority may not recover costs under subsection (8) above if a compensation order has been made under section 249 of the Criminal Procedure (Scotland) Act 1995 in favour of the authority in respect of any part of those costs.]
- [<sup>F9</sup>(8D) Subsection (8C) does not apply if the compensation order is set aside on appeal.]
- (9) Any waste removed by an authority under subsection (7) above shall belong to that authority and may be dealt with accordingly.

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### Textual Amendments

- F1** Words in s. 59(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(7)}
- F2** Words in s. 59(1) inserted (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 73, **Sch. 21 para. 14(a)** (with reg 72, Sch. 4)
- F3** Words in s. 59(1)(7) substituted (E.W.) (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(4)(c)** (with Sch. 4)
- F4** Words in s. 59(5) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 6(2)** (with reg. 5(1))
- F5** Words in s. 59(7) inserted (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 73, **Sch. 21 para. 14(b)** (with reg 72, Sch. 4)
- F6** Words in s. 59(7)(b) inserted (E.W.) (6.4.2006 for E. and 27.10.2006 for W.) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 50(1)**, 108; S.I. 2006/795, **art. 2(3)**, Sch. 2; S.I. 2006/2797, **art. 2(i)**
- F7** S. 59(8A)(8B) inserted (E.W.) (18.10.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), **ss. 43(2)**, 108 (with s. 43(3)); S.I. 2005/2896, **art. 2(b)**
- F8** Words in s. 59(8A) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 118** (with Sch. 27); S.I. 2020/1236, reg. 2
- F9** S. 59(8C)(8D) inserted (S.) (30.6.2014) by Regulatory Reform (Scotland) Act 2014 (asp 3), s. 61(2), **sch. 3 para. 11(3)**; S.S.I. 2014/160, art. 2(1)(2), sch.

### Modifications etc. (not altering text)

- C1** S. 59 applied (with modifications) (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3)-(5), **25**
- C2** S. 59: amendment to earlier affecting provision London Local Authorities Act 2007 (c. ii), **s. 25** (27.5.2012) by London Local Authorities Act 2012 (c. ii), ss. 1(3), **17(2)**

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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\(4\)](#)