



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 5

#### WASTE

### CHAPTER 1

#### TRANSPORT OF WASTE

## 37 Enforcement powers

For section 5 of the Control of Pollution (Amendment) Act 1989 substitute—

### **“5 Power to require production of authority, stop and search etc**

- (1) This section applies where an authorised officer of a regulation authority or a constable reasonably believes that controlled waste has been, is being or is about to be transported in contravention of section 1(1) above.
- (2) The authorised officer or constable may—
  - (a) require any person appearing to him to be or to have been engaged in transporting that waste to produce his (or, as the case may be, his employer's) authority to do so;
  - (b) search any vehicle that appears to him to be a vehicle that has been, is being or is about to be used for transporting that waste;
  - (c) carry out tests on anything found in any such vehicle (including by taking away samples for testing of anything so found);
  - (d) seize any such vehicle and any of its contents.

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- (3) For the purposes of subsection (2)(a) above, a person's authority for transporting controlled waste is—
- (a) his certificate of registration as a carrier of controlled waste;
  - (b) such copy of that certificate as satisfies requirements specified in regulations made by the appropriate person; or
  - (c) such evidence as may be so specified that he is not required to be registered as a carrier of controlled waste.
- (4) Where an authorised officer or constable has required a person to produce an authority under subsection (2)(a) above, the person must do so—
- (a) by producing it forthwith to the authorised officer or constable;
  - (b) by producing it at a place and within a period specified in regulations made by the appropriate person; or
  - (c) by sending it to that place and within that period.
- (5) In acting under subsection (2) above an authorised officer or constable may—
- (a) stop any vehicle as referred to in paragraph (b) of that subsection (but only a constable in uniform may stop a vehicle on any road);
  - (b) enter any premises for the purpose specified in paragraph (b) or (d) of that subsection.
- (6) A vehicle or its contents seized under subsection (2)(d) above—
- (a) by an authorised officer of a regulation authority, are seized on behalf of that authority;
  - (b) by a constable in the presence of an authorised officer of a regulation authority, are seized on behalf of that authority;
  - (c) by a constable without such an officer present, are seized on behalf of the waste collection authority in whose area the seizure takes place.
- (7) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement imposed under paragraph (a) of subsection (2) above;
  - (b) he fails without reasonable excuse to give any assistance that an authorised officer or constable may reasonably request in the exercise of a power under that subsection;
  - (c) he otherwise intentionally obstructs an authorised officer or constable in the exercise of a power under that subsection.
- (8) A person is not guilty of an offence by virtue of subsection (7)(a) above unless it is shown—
- (a) that the waste in question was controlled waste; and
  - (b) that the waste was or was being transported to or from a place in Great Britain.
- (9) Where an authorised officer or constable has stopped a vehicle under subsection (5) above, he may (in addition to any requirement that may be imposed under paragraph (a) of subsection (2) above) require any occupant of the vehicle to give him—
- (a) the occupant's name and address;
  - (b) the name and address of the registered owner of the vehicle;
  - (c) any other information he may reasonably request.

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- (10) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement under subsection (9) above;
  - (b) he gives information required under that subsection that is—
    - (i) to his knowledge false or misleading in a material way, or
    - (ii) given recklessly and is false or misleading in a material way.
- (11) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **5A Seizure of vehicles etc: supplementary**

- (1) Where under section 5 above an authorised officer of a regulation authority or a constable seizes a vehicle or its contents (“seized property”) on behalf of a regulation authority, the authority may remove the seized property to such a place as the authority consider appropriate.
- (2) A regulation authority must deal with any seized property in accordance with regulations made by the appropriate person.
- (3) Regulations under subsection (2) above may in particular include provision as to—
- (a) the duties of a regulation authority in relation to the safe custody of seized property;
  - (b) the circumstances in which the authority must return any such property to a person claiming entitlement to it;
  - (c) the manner in which such persons, and the seized property to which they are entitled, may be determined;
  - (d) the circumstances in which the authority may sell, destroy or otherwise dispose of seized property;
  - (e) the uses to which the proceeds of any such sale may be put.
- (4) Regulations making provision under subsection (3)(d) above—
- (a) must (subject to paragraph (c) below) require the regulation authority to publish a notice in such form, and to take any other steps, as may be specified in the regulations for informing persons who may be entitled to the seized property that it has been seized and is available to be claimed;
  - (b) must (subject to paragraph (c) below) prohibit the authority from selling, destroying or otherwise disposing of any seized property unless a period specified in the regulations has expired without any obligation arising under the regulations for the authority to return the property to any person;
  - (c) may allow for the requirements in paragraphs (a) and (b) above to be dispensed with if the condition of the seized property requires its disposal without delay.
- (5) The appropriate person may issue guidance to regulation authorities in relation to the performance of their functions under regulations under subsection (2) above.”

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#### Commencement Information

- I1** S. 37 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**
- I2** S. 37 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, **art. 2(3), Sch. 2**
- I3** S. 37 in force at 27.10.2006 for specified purposes for W. by S.I. 2006/2797, **art. 2(h)**
- I4** S. 37 in force at 3.3.2015 for specified purposes for E. by S.I. 2015/425, **art. 2(a)**
- I5** S. 37 in force at 6.4.2015 in so far as not already in force by S.I. 2015/425, **art. 4(1)(a)**

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**Commencement Orders yet to be applied to the Clean Neighbourhoods and Environment Act 2005**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2007/120 art. 3](#) Amendment to earlier commencing [S.I. 2006/2797](#)