

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 5: Waste

Chapter 2: Deposit and Disposal of Waste

Offences: powers of seizure

Section 46 Power to search and seize vehicles

147. *Subsection (1)* of section 46 inserts new sections 34B and 34C into the 1990 Act. These sections confer powers to stop, search and seize a vehicle (and its contents) where it is reasonably believed that the vehicle has been, is being, or is about to be, used in the commission of an offence under section 33 or 34.
148. Section 34B allows an authorised officer of an enforcement authority or a constable to seize a vehicle and its contents but only a constable in uniform may stop a vehicle on the road. A vehicle or its contents seized by a constable in the presence of an authorised officer of an enforcement authority are seized on behalf of that authority; where a vehicle or its contents are seized by a constable acting alone they are seized on behalf of the waste collection authority in whose area the seizure took place.
149. Section 34B(7) creates offences of failing to assist or otherwise intentionally obstructing an authorised officer or constable.
150. Section 34B(8) empowers an authorised officer or a constable to demand the name and address of any occupant of a vehicle he has stopped under this section, the name and address of the registered owner of the vehicle, or any other information he may reasonably request.
151. By section 34B(9) it is an offence to fail without reasonable excuse to give this information, or to give information which is knowingly or recklessly false or misleading. Any offence under section 34B is punishable on summary conviction by a fine not exceeding level 5 on the standard scale (currently £5,000).
152. New section 34C empowers the appropriate person (described in section 34C(6)) to make regulations specifying how an enforcement authority must deal with any seized property and to issue guidance to enforcement authorities in relation to their performance of their functions under such regulations.
153. *Subsection (2)* also extends to waste collection authorities the use of notices under section 71(2) of the 1990 Act to include functions conferred by the new sections 34C and 34D.