



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 5

WASTE

CHAPTER 2

DEPOSIT AND DISPOSAL OF WASTE

Offence of unlawful deposit of waste etc

44 Forfeiture of vehicles

- (1) In the Environmental Protection Act 1990 (c. 43), after section 33B (as inserted by section 43 above) insert—

“33C Section 33 offences: forfeiture of vehicles

- (1) This section applies where a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste.
- (2) The court by or before which the offender is convicted may make an order under this section if—
- the court is satisfied that a vehicle was used in or for the purposes of the commission of the offence; and
 - at the time of his conviction the offender has rights in the vehicle.

Changes to legislation: Clean Neighbourhoods and Environment Act 2005, Section 44 is up to date with all changes known to be in force on or before 11 August 2023. 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

- (3) An order under this section operates to deprive the offender of his rights in the vehicle (including its fuel) at the time of his conviction and to vest those rights in the relevant enforcement authority.
- (4) In a case where a vehicle has been seized under section 34B below and the offender retains rights in any of the vehicle's contents, an order under this section may, if and to the extent that it so specifies, deprive the offender of those rights and vest them in the relevant enforcement authority.
- (5) Where an order under this section is made, the relevant enforcement authority may take possession of the vehicle (if it has not already done so under section 34C below).
- (6) The court may make an order under this section whether or not it also deals with the offender in any other way in respect of the offence of which he is convicted.
- (7) In considering whether to make an order under this section a court must in particular have regard to—
- (a) the value of the vehicle;
 - (b) the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making);
 - (c) the offender's need to use the vehicle for lawful purposes;
 - (d) whether, in a case where it appears to the court that the offender is engaged in a business which consists wholly or partly in activities which are unlawful by virtue of section 33 above, the making of the order is likely to inhibit the offender from engaging in further such activities.
- (8) Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (power to deprive offender of property) does not apply in any case where this section applies.
- (9) For the purposes of this section, where a vehicle or its contents have been seized under section 34B below in connection with the offence referred to in subsection (1) above, any transfer by the offender after the seizure and before his conviction of any of his rights in the vehicle or its contents is of no effect.
- (10) In this section—
- “relevant enforcement authority” means—
- (a) the Environment Agency, where the proceedings in respect of the offence have been brought by or on behalf of the Agency, or
 - (b) in any other case, the waste collection authority in whose area the offence was committed;
- “vehicle” means any motor vehicle or trailer within the meaning of the Road Traffic Regulation Act 1984 or any mobile plant.”
- (2) This section does not have effect in relation to an offence under section 33 of that Act committed before the commencement of this section.

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Commencement Information

II S. 44 in force at 18.10.2005 by [S.I. 2005/2896](#), [art. 2\(c\)](#)

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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