



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 5

#### WASTE

### CHAPTER 2

#### DEPOSIT AND DISPOSAL OF WASTE

#### *Offences: powers of seizure*

#### **46 Power to search and seize vehicles**

- (1) After section 34A of the Environmental Protection Act 1990 (c. 43) (as inserted by section 45 above), insert—

*“Offences under sections 33 and 34: powers of seizure etc*

#### **34B Power to search and seize vehicles etc**

- (1) This section applies where an authorised officer of an enforcement authority or a constable reasonably believes that the grounds in subsection (2) or (3) below exist.
- (2) The grounds in this subsection are that—
- [<sup>F1</sup>a relevant offence] has been committed,
  - a vehicle was used in the commission of the offence, and
  - proceedings for the offence have not yet been brought against any person.

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**Changes to legislation:** Clean Neighbourhoods and Environment Act 2005, Section 46 is up to date with all changes known to be in force on or before 12 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

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- (3) The grounds in this subsection are that—
- (a) [F1a relevant offence] is being or is about to be committed, and
  - (b) a vehicle is being or is about to be used in the commission of the offence.
- (4) The authorised officer or constable may—
- (a) search the vehicle;
  - (b) seize the vehicle and any of its contents.
- (5) In acting under subsection (4) above the authorised officer or constable may—
- (a) stop the vehicle (but only a constable in uniform may stop a vehicle on any road);
  - (b) enter any premises for the purpose of searching or seizing the vehicle.
- (6) A vehicle or its contents seized under subsection (4) above—
- (a) by an authorised officer of an enforcement authority, are seized on behalf of that authority;
  - (b) by a constable in the presence of an authorised officer of an enforcement 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 give any assistance that an authorised officer or constable may reasonably request in the exercise of a power under subsection (4) or (5) above;
  - (b) he otherwise intentionally obstructs an authorised officer or constable in exercising that power.
- (8) Where an authorised officer or constable has stopped a vehicle under subsection (5)(a) above, he may 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.
- (9) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement under subsection (8) 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.
- (10) 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.
- (11) In this section and section 34C below—
- “authorised officer” means an officer of an enforcement authority who is authorised in writing by the authority for the purposes of this section;
- “enforcement authority” means—

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- (a) the Environment Agency, or
- (b) a waste collection authority;
- [<sup>F2</sup>“relevant offence” means—
- (a) an offence under section 33 above, or
- (b) an offence under section 34 above consisting of a failure to comply with the duty imposed by subsection (1) of that section;]
- “road” has the same meaning as in the Road Traffic Regulation Act 1984;
- “vehicle” means any motor vehicle or trailer within the meaning of that Act or any mobile plant.

### **34C Seizure of vehicles etc: supplementary**

- (1) Where under section 34B above an authorised officer or constable seizes a vehicle or its contents (“seized property”) on behalf of an enforcement authority, the authority may remove the seized property to such a place as it considers appropriate.
- (2) An enforcement 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 enforcement authorities in relation to the safe custody of seized property;
  - (b) the circumstances in which they 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 an enforcement 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 enforcement 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 enforcement authorities in relation to the performance of their functions under regulations under subsection (2) above.”

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(2) In section 71 of that Act (obtaining information from persons and authorities)—

(a) after subsection (2) insert—

“(2A) A waste collection authority has the power referred to in subsection (2) for the purpose of the discharge of its functions under sections 34B and 34C above.”;

(b) in subsection (3) after “subsection (2)” insert “ or (2A) ”.

#### Textual Amendments

- F1** Words in s. 46(1) substituted (21.11.2005) by [The Waste \(Household Waste Duty of Care\) \(England and Wales\) Regulations 2005 \(S.I. 2005/2900\)](#), [reg. 3\(2\)](#)
- F2** Words in s. 46(1) inserted (21.11.2005) by [The Waste \(Household Waste Duty of Care\) \(England and Wales\) Regulations 2005 \(S.I. 2005/2900\)](#), [reg. 3\(3\)](#)

#### Commencement Information

- I1** S. 46 in force at 16.3.2006 for specified purposes for W. by [S.I. 2006/768](#), [art. 3](#)
- I2** S. 46 in force at 3.3.2015 for specified purposes for E. by [S.I. 2015/425](#), [art. 2\(b\)](#)
- I3** S. 46 in force at 6.4.2015 in so far as not already in force by [S.I. 2015/425](#), [art. 4\(1\)\(b\)](#)

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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](#)