
STATUTORY INSTRUMENTS

2007 No. 611

The Waste (Amendment) (Northern Ireland) Order 2007

Offences relating to deposit, disposal, etc. of waste

Forfeiture of vehicles

8.—(1) In the 1997 Order, after Article 5C (inserted by Article 7) insert—

“Article 4 and 5 offences: forfeiture of vehicles

5D.—(1) Subject to paragraph (2), this Article applies where a person is convicted of—

- (a) an offence under Article 4 in respect of a contravention of paragraph (1) of that Article consisting of the deposit or disposal of controlled waste;
- (b) an offence under Article 5 in respect of a failure to comply with paragraph (1) of that Article.

(2) This Article does not apply where a person (other than an establishment or undertaking) is convicted of a relevant offence within the meaning of Article 4.

(3) The court by or before which the offender is convicted may make an order under this Article if—

- (a) the court is satisfied that a vehicle was used in or for the purposes of the commission of the offence; and
- (b) at the time of his conviction the offender has rights in the vehicle.

(4) An order under this Article 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 Department.

(5) In a case where a vehicle has been seized under Article 5E and the offender retains rights in any of the vehicle’s contents, an order under this Article may, if and to the extent that it so specifies, deprive the offender of those rights and vest them in the Department.

(6) Where an order under this Article is made, the Department may take possession of the vehicle (if it has not already done so under Article 5F).

(7) The court may make an order under this Article whether or not it also deals with the offender in any other way in respect of the offence of which he is convicted.

(8) In considering whether to make an order under this Article 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 Article 4, the making of the order is likely to inhibit the offender from engaging in further such activities.

(9) Article 11 of the Criminal Justice (Northern Ireland) Order 1994 (power to deprive offender of property) does not apply in any case where this Article applies.

(10) For the purposes of this Article, where a vehicle or its contents have been seized under Article 5E in connection with the offence referred to in paragraph (1), 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.

(11) In this Article “vehicle” includes any mobile plant.”.

(2) This Article does not have effect in relation to an offence committed before the coming into operation of this Article.