



Control of Pollution (Amendment) Act 1989

1989 CHAPTER 14

6 Seizure and disposal of vehicles used for illegal waste disposal.

- [^{F1}(1) A justice of the peace or, in Scotland, a sheriff or a justice of the peace may issue a warrant to a [^{F2}disposal authority][^{F2}regulation authority] for the seizure of any vehicle if he is satisfied, on sworn information in writing—
- (a) that there are reasonable grounds for believing—
 - (i) that an offence under section 3 of the ^{M1} Control of Pollution Act 1974 [^{F3} or section 33 of the Environmental Protection Act 1990] (prohibition on unlicensed [^{F4} deposit, treatment or] disposal of waste) has been committed; and
 - (ii) that that vehicle was used in the commission of the offence;
 - (b) that proceedings for that offence have not yet been brought against any person; and
 - (c) that the authority have failed, after taking the prescribed steps, to ascertain the name and address of any person who is able to provide them with the prescribed information about who was using the vehicle at the time when the offence was committed.
- (2) Subject to subsections (3) and (4) below, where a warrant under this section has been issued to a [^{F2}disposal authority][^{F2}regulation authority] in respect of any vehicle, any duly authorised officer of the [^{F2}disposal authority][^{F2}regulation authority] or any constable may stop the vehicle and, on behalf of the authority, seize the vehicle and its contents.
- (3) Nothing in this section shall authorise any person other than a constable in uniform to stop a vehicle on any road; and a duly authorised officer of a [^{F2}disposal authority][^{F2}regulation authority] shall not be entitled to seize any property under this section unless he is accompanied by a constable.
- (4) A warrant under this section shall continue in force until its purpose is fulfilled; and any person seizing any property under this section shall, if required to do so, produce

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both the warrant and any authority in pursuance of which he is acting under the warrant.

- (5) Where any property has been seized under this section on behalf of a [F²disposal authority][F²regulation authority], the authority may, in accordance with regulations made by the Secretary of State, remove it to such place as the authority consider appropriate and may retain custody of it until either—
- (a) it is returned, in accordance with the regulations, to a person who establishes that he is entitled to it; or
 - (b) it is disposed of by the authority in exercise of a power conferred by the regulations to sell or destroy the property or to deposit it at any place.
- [F⁵(6) Regulations under this section shall not authorise a regulation authority to sell or destroy any property or to deposit any property at any place unless—
- (a) the following conditions are satisfied, that is to say—
 - (i) the authority have published such notice, and taken such other steps (if any), as may be prescribed for informing persons who may be entitled to the property that it has been seized and is available to be claimed; and
 - (ii) the prescribed period has expired without any obligation arising under the regulations for the regulation authority to return the property to any person; or
 - (b) the condition of the property requires it to be disposed of without delay.]
- (7) Regulations under this section may—
- (a) impose obligations on a [F²disposal authority][F²regulation authority] to return any property which has been seized under this section to a person who claims to be entitled to it and satisfies such requirements for establishing his entitlement, and such other requirements, as may be prescribed;
 - (b) provide for the manner in which the person entitled to any such property is to be determined where there is more than one claim to it;
 - (c) provide for the proceeds of sale of any property sold by a [F²disposal authority][F²regulation authority] under the regulations to be applied towards meeting expenses incurred by the authority in exercising their functions by virtue of this section and, in so far as they are not so applied, to be applied in such other manner as may be prescribed;
 - (d) make provision which treats a person who establishes that he is entitled to a vehicle as having established for the purposes of regulations under this section that he is also entitled to its contents.
- (8) Subject to their powers by virtue of any regulations under this section to sell or destroy any property or to dispose of it by depositing it at any place, it shall be the duty of a [F²disposal authority][F²regulation authority], while any property is in their custody by virtue of a warrant under this section, to take such steps as are reasonably necessary for the safe custody of that property.
- (9) Any person who intentionally obstructs any authorised officer of a [F²disposal authority][F²regulation authority] or constable in the exercise of any power conferred by virtue of a warrant under this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.]

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Subordinate Legislation Made

- P1** S. 6: ss. 1(3)(a), 2, 4(6), 5(3)(6)(a) and 6(1)(c) (with ss. 3, 6(5) to (7), 8(2) and 9(1)) power exercised by [S.I. 1991/1624](#).

Textual Amendments

- F1** S. 6 repealed (E.W.) (6.4.2015 for specified purposes immediately after the coming into force of the Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108(1)(2), [Sch. 5 Pt. 4](#); [S.I. 2015/425](#), art. 4(2)(3) (with art. 5); [S.I. 2015/425](#), art. 4(2)(3) (with art. 5)
- F2** Words in s. 6(1)(2)(3)(5)(6)(7)(a)(c)(8)(9) substituted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 31\(2\)](#), [S.I. 1991/1319](#), art. 2
- F3** Words inserted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(1), [Sch. 15 para. 31\(3\)\(a\)](#), [S.I. 1991/1319](#), art. 2
- F4** Words inserted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 31\(3\)\(b\)](#), [S.I. 1991/1319](#), art. 2
- F5** S. 6(6) substituted (21.9.1995) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 37\(4\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); [S.I. 1995/1983](#), [art. 3](#)

Commencement Information

- I1** S. 6 wholly in force; s. 6 in force for certain purposes at 16.07.1991 see s. 11(2) and [S.I. 1991/1618](#), [art. 2\(b\)](#); and s. 6 fully in force at 14.10.1991 by [S.I. 1991/1618](#), [art. 3](#).

Marginal Citations

- M1** [1974 c. 40](#).

Changes to legislation:

There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989, Section 6 .