



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART II

#### WASTE ON LAND

##### *Prohibition on unauthorised or harmful depositing, treatment or disposal of waste*

#### **[<sup>F1</sup>33C Section 33 offences: forfeiture of vehicles**

[<sup>F2</sup>(1) This section applies where—

- (a) subject to subsection (1A) below, 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;
- (b) a person is convicted of an offence under [<sup>F3</sup>regulation 38(1) of the Environmental Permitting Regulations] in respect of a contravention of regulation 12 of those Regulations consisting of the disposal of waste.]

[ This section does not apply where a person (other than an establishment or <sup>F4</sup>(1A) undertaking) is convicted of a relevant offence within the meaning of section 33 above.]

- (2) The court by or before which the offender is convicted may make an order under this section 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.
- (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

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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, [<sup>F5</sup>or [<sup>F6</sup>regulation 38(1) or (2) of the Environmental Permitting Regulations],] the making of the order is likely to inhibit the offender from engaging in further such activities.
- (8) [<sup>F7</sup>Section 153 of the Sentencing Code] (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,<sup>F8</sup>...
  - (aa) [<sup>F9</sup>the Natural Resources Body for Wales, where the proceedings in respect of the offence have been brought by or on behalf of that Body, 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.]

#### Textual Amendments

- F1** S. 33C inserted (E.W.) (18.10.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 44(1)**, 108 (with [s. 44\(2\)](#)); [S.I. 2005/2896](#), **art. 2(c)**
- F2** S. 33C(1) substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **reg. 73**, **Sch. 21 para. 7(1)** (with [reg. 72](#), [Sch. 4](#))
- F3** Words in s. 33C(1)(b) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), **regs. 1(1)(b)**, 107, **Sch. 26 para. 5(6)(c)** (with [Sch. 4](#))
- F4** S. 33C(1A) inserted (15.5.2006) by [The Waste Management \(England and Wales\) Regulations 2006 \(S.I. 2006/937\)](#), **reg. 2(4)(b)**
- F5** Words in s. 33C(7)(d) inserted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **reg. 73**, **Sch. 21 para. 7(2)** (with [reg. 72](#), [Sch. 4](#))

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- F6** Words in s. 33C(7)(d) substituted (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), regs. 1(1)(b), 107, **Sch. 26 para. 5(7)** (with Sch. 4)
- F7** Words in s. 33C(8) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 117** (with Sch. 24 para. 447, Sch. 27); [S.I. 2020/1236](#), reg. 2
- F8** Word in s. 33C(10) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 211** (with Sch. 7)
- F9** Words in s. 33C(10) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 211** (with Sch. 7)

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**Modifications etc. (not altering text)**

- C1** Ss. 33-34C applied (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), regs. 1(2), **47(3)** (with regs. 2, 47(2))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)