



# Circular Economy (Scotland) Act 2024

## 2024 asp 13

PROSPECTIVE

### *Enforcement powers in respect of certain environmental offences*

#### **19 Powers to search and seize vehicles, etc.**

- (1) The Environment Act 1995 is modified as follows.
- (2) After section 110 insert—

*“Further enforcement powers: Scotland*

#### **110A Search and seizure of vehicles, etc.**

- (1) A relevant official may exercise the powers set out in subsection (2) where—
  - (a) the official reasonably believes that a vehicle has been, is being or is about to be used in the commission of a relevant offence, and
  - (b) proceedings have not been brought against any person in respect of the offence.
- (2) The powers referred to in subsection (1) are—
  - (a) the power to stop the vehicle (but only a constable in uniform may stop a vehicle on a road),
  - (b) the power to require any occupant of the vehicle to give the official—
    - (i) the occupant’s name and address,
    - (ii) the name and address of the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994,
    - (iii) any other information the official reasonably requests,
  - (c) the power to enter premises (but not premises used for residential purposes) at a reasonable time for the purpose of searching or seizing the vehicle,
  - (d) the power to search the vehicle,
  - (e) the power to seize the vehicle and any of its contents.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Circular Economy (Scotland) Act 2024, Cross Heading: Enforcement powers in respect of certain environmental offences. (See end of Document for details)*

- (3) Any information a person gives in response to a requirement imposed under [subsection \(2\)\(b\)](#) is inadmissible in evidence against the person in criminal proceedings in respect of any offence other than an offence under [section 110B\(1\)](#).
- (4) A vehicle or its contents seized under subsection (2)(e)—
- (a) by a relevant official of SEPA acting alone, are seized on behalf of SEPA,
  - (b) by a relevant official of a waste collection authority acting alone, are seized on behalf of the waste collection authority in whose area the seizure takes place,
  - (c) by a constable in the presence of or at the request of a relevant official of SEPA, are seized on behalf of SEPA,
  - (d) by a constable acting alone, or in the presence of or at the request of a relevant official of a waste collection authority, are seized on behalf of the waste collection authority in whose area the seizure takes place.
- (5) For the purposes of this section, an offence is a relevant offence if an enactment states that the powers conferred by this section may be exercised in relation to it.
- (6) In this section and sections 110B and 110C—
- “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,
- “mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise,
- “premises” includes any land, vehicle, vessel or mobile plant,
- “relevant official” means—
- (a) a person authorised by SEPA or by a waste collection authority to exercise the powers conferred by this section, or
  - (b) a constable,
- “road” has the same meaning as in the Roads (Scotland) Act 1984,
- “vehicle” means—
- (a) a motor vehicle within the meaning of the Road Traffic Regulation Act 1984,
  - (b) a vehicle drawn by a motor vehicle,
  - (c) mobile plant,
- “waste collection authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

### **110B Offences of obstructing, not co-operating, etc.**

- (1) A person commits an offence if the person—
- (a) fails without reasonable excuse to give any assistance that a relevant official reasonably requests in the exercise of a power conferred by [section 110A](#),
  - (b) otherwise intentionally obstructs a relevant official in exercising one of those powers,

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- (c) fails without reasonable excuse to give information when required to do so by a relevant official in exercise of the power conferred by [section 110A\(2\)\(b\)](#),
  - (d) in response to such a requirement knowingly or recklessly gives information that is, in a material way, either false or misleading.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **110C Handling of seized property**

- (1) Where property has been seized under [section 110A](#) on behalf of SEPA or a waste collection authority, the authority on whose behalf it was seized (the “responsible authority”) may remove the seized property to a place which it considers appropriate.
- (2) The responsible authority must—
- (a) deal with any seized property in accordance with regulations made by the Scottish Ministers, and
  - (b) in so doing, have regard to any guidance issued by the Scottish Ministers.
- (3) Regulations under subsection (2)(a)—
- (a) must set out—
    - (i) the duties of a responsible authority in relation to the safe custody of seized property,
    - (ii) the circumstances in which seized property must be returned to a person claiming entitlement to it,
    - (iii) the circumstances in which a responsible authority may sell, destroy or otherwise dispose of seized property, and
    - (iv) the uses to which the proceeds of any sale may be put,
  - (b) must require a responsible 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,
  - (c) must require a responsible authority to wait for a period specified in the regulations before selling, destroying or otherwise disposing of seized property, with that period beginning only once the responsible authority has taken steps specified in the regulations to inform anyone who may be entitled to the seized property in question that it has been seized and how a claim for its return may be made,
  - (d) may—
    - (i) provide for exceptions to the requirements described by paragraphs (b) and (c),
    - (ii) include any other provision that the Scottish Ministers consider appropriate.
- (4) Regulations under [subsection \(2\)\(a\)](#) are subject to the affirmative procedure.

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### **110D Power to apply enforcement powers in respect of offences**

- (1) The Scottish Ministers may by regulations provide for an offence to be, or cease to be, a relevant offence for the purposes of [section 110A](#).
- (2) The power conferred by subsection (1) may be exercised to modify any enactment (including this Act).
- (3) Regulations under [subsection \(1\)](#) are subject to the affirmative procedure.”.

#### **Commencement Information**

**II** S. 19 not in force at Royal Assent, see [s. 27](#)

## **20 Offences in respect of which powers may be exercised**

- (1) In the Control of Pollution (Amendment) Act 1989—
  - (a) in section 1 (offence of transporting controlled waste without registering), after subsection (5) insert—
 

“(5A) The enforcement powers conferred by [section 110A](#) of the Environment Act 1995 may be exercised in relation to an offence under this section.”,
  - (b) in section 5 (duty to produce authority to transport controlled waste)—
    - (i) for subsections (1) and (2) substitute—
 

“(1A) Where it reasonably appears to a duly authorised officer of a regulation authority or to a constable that a person—

      - (a) has been engaged in transporting controlled waste in contravention of section 1(1),
      - (b) is engaged in doing so, or
      - (c) is about to engage in doing so,

the officer or constable may require the person to produce the person's authority or, as the case may be, the person's employer's authority for transporting the waste.
    - (1B) In this section, references to a “regulation authority” include a waste collection authority falling within section 30(3)(c) of the Environmental Protection Act 1990.”,
    - (ii) in subsection (4)(a) for “(1)” substitute “(1A)”,
    - (iii) in subsection (6)(a) for “his” substitute “the person's (or, as the case may be, the person's employer's)”,
    - (iv) in subsection (6)(b) for “he” substitute “the person”,
  - (c) section 6 (seizure and disposal of vehicles used for illegal waste disposal) is repealed.
- (2) In the Environmental Protection Act 1990—
  - (a) in section 33 (prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste), after subsection (10) insert—

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“(10A) The enforcement powers conferred by [section 110A](#) of the Environment Act 1995 may be exercised in relation to an offence under this section.”,

(b) in section 34 (duty of care etc. as respects waste), after subsection (6) insert—

“(6A) The enforcement powers conferred by [section 110A](#) of the Environment Act 1995 may be exercised in relation to an offence consisting of a failure to comply with the duty imposed by subsections (1)(a), (aa), (b) and (c) and (2I).”.

(3) In the Pollution Prevention and Control (Scotland) Regulations 2012 ([S.S.I. 2012/360](#)), after regulation 57 insert—

“57A. **Search and seizure of vehicles, etc.**

The enforcement powers conferred by [section 110A](#) of the 1995 Act may be exercised in relation to an offence under regulation 67(1)(a) or (b).”.

#### Commencement Information

**I2** S. 20 not in force at Royal Assent, see [s. 27](#)

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