



# Control of Pollution (Amendment) Act 1989

1989 CHAPTER 14

**E+W+S**

An Act to provide for the registration of carriers of controlled waste and to make further provision with respect to the powers exercisable in relation to vehicles shown to have been used for illegal waste disposal. [6th July 1989]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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

- C1** Act: transfer of functions conferred (1.4.1996) by 1995 c. 25, s. 2(1)(b)(i) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/186, art. 3  
Act modified (1.2.1996) by 1995 c. 25, s. 5(5)(d) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/186, art. 2  
Act: transfer of functions conferred (12.10.1995) by 1995 c. 25, s. 21(1)(b)(i) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2649, art. 2(b)  
Act modified (1.4.1996) by 1995 c. 25, s. 33(5)(d) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/186, art. 3  
Act: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2 Sch. 1

## **1 Offence of transporting controlled waste without registering. E+W+S**

- (1) Subject to the following provisions of this section, it shall be an offence for any person who is not a registered carrier of controlled waste, in the course of any business of his or otherwise with a view to profit, to transport any controlled waste to or from any place in Great Britain.
- (2) A person shall not be guilty of an offence under this section in respect of—

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- (a) the transport of controlled waste within the same premises between different places in those premises;
  - (b) the transport to a place in Great Britain of controlled waste which has been brought from a country or territory outside Great Britain and is not landed in Great Britain until it arrives at that place;
  - (c) the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain.
- (3) The Secretary of State may by regulations provide that a person shall not be required for the purposes of this section to be a registered carrier of controlled waste if—
- (a) he is a prescribed person or a person of such a description as may be prescribed; <sup>F1</sup>...
  - <sup>F2</sup>(b) .....
- (4) In proceedings against any person for an offence under this section in respect of the transport of any controlled waste it shall be a defence for that person to show—
- (a) that the waste was transported in an emergency of which notice was given, as soon as practicable after it occurred, to the [<sup>F3</sup>disposal authority][<sup>F3</sup>regulation authority] in whose area the emergency occurred; [<sup>F4</sup> or ]
  - (b) that he neither knew nor had reasonable grounds for suspecting that what was being transported was controlled waste and took all such steps as it was reasonable to take for ascertaining whether it was such waste; or
  - (c) [<sup>F5</sup>that he acted under instructions from his employer.]
- (5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section “emergency”, in relation to the transport of any controlled waste, means any circumstances in which, in order to avoid, remove or reduce any serious danger to the public or serious risk of damage to the environment, it is necessary for the waste to be transported from one place to another without the use of a registered carrier of such waste.

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#### Textual Amendments

- F1** Word in s. 1(3) omitted (31.12.2020) by virtue of [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/620\)](#), regs. 1(2)(b), **4(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 1(3)(b) omitted (31.12.2020) by virtue of [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/620\)](#), regs. 1(2)(b), **4(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 1 (4)(a) 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
- F4** Word in s. 1(4)(a) inserted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 35(1)(a)**, 108(4) (with s. 35(2))
- F5** S. 1(4)(c) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 35(1)(b)**, 108(4), **Sch. 5 Pt. 4** (with s. 35(2))

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#### Commencement Information

- I1** S. 1 wholly in force; s. 1(3) in force at 16.07.1991 see s. 11(2) and [S.I. 1991/1618](#), **art. 2(a)**; and s. 1 fully in force at 1.4.1992 by [S.I. 1991/1618](#), **art. 4**.

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**2 Registration of carriers.** **E+W+S**

(1) Subject to section 3 below, the Secretary of State may by regulations make provision for the registration of persons with [<sup>F6</sup>disposal authorities][<sup>F6</sup>regulation authorities] as carriers of controlled waste and, for that purpose, for the establishment and maintenance by such authorities, in accordance with the regulations, of such registers as may be prescribed.

(2) Regulations under this section may—

- (a) make provision with respect to applications for registration;
- (b) impose requirements with respect to the manner in which [<sup>F6</sup>disposal authorities][<sup>F6</sup>regulation authorities] maintain registers of carriers of controlled waste;
- (c) provide for the issue of a certificate of registration [<sup>F7</sup>free of charge] to a registered carrier of controlled waste both on his registration and on the making of any alteration of any entry relating to him in a register of such carriers;
- (d) [<sup>F8</sup>provide for such a certificate to be in such form and to contain such information as may be prescribed;]
- (e) provide that the provision by a [<sup>F6</sup>disposal authority][<sup>F6</sup>regulation authority] to a registered carrier of such copies of a certificate of registration as are provided in addition to the certificate provided [<sup>F9</sup>free of charge] in pursuance of provision made by virtue of paragraph (c) above is to be made subject to the payment of a charge imposed under the regulations.

(3) Provision contained in any regulations under this section by virtue of subsection (2) (a) above may, in particular, include provision which—

- (a) prescribes the manner of determining the [<sup>F6</sup>disposal authority][<sup>F6</sup>regulation authority] to which an application is to be made;
- (b) [<sup>F10</sup>prescribes the form on which and other manner in which an application is to be made;]
- (c) prescribes the period within which an application for the renewal of any registration which is due to expire is to be made;
- (d) imposes requirements with respect to the information which is to be provided by an applicant to the authority to which his application is made;

<sup>F11</sup>(e) .....

[<sup>F12</sup>(3A) Without prejudice to the generality of [<sup>F13</sup>paragraphs (b) and (d)][<sup>F13</sup> paragraph (d) ] of subsection (3) above—

- (a) [<sup>F14</sup>the power to prescribe a form under paragraph (b) of that subsection includes power to require an application to be made on any form of any description supplied for the purpose by the regulation authority to which the application is to be made; and]
- (b) the power to impose requirements with respect to information under paragraph (d) of that subsection includes power to make provision requiring an application to be accompanied by such information as may reasonably be required by the regulation authority to which it is to be made.]

(4) Provision contained in any regulations under this section by virtue of subsection (2) (b) above may, in particular, include provision—

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- (a) specifying or describing the information to be incorporated in any register maintained by a [<sup>F6</sup>disposal authority][<sup>F6</sup>regulation authority] in pursuance of any such regulations;
- (b) requiring a registered carrier of controlled waste to notify a [<sup>F6</sup>disposal authority][<sup>F6</sup>regulation authority] which maintains such a register of any change of circumstances affecting information contained in the entry relating to that carrier in that register;
- (c) requiring a [<sup>F6</sup>disposal authority][<sup>F6</sup>regulation authority], to such extent and in such manner as may be prescribed, to make the contents of any such register available for public inspection free of charge; and
- (d) requiring such an authority, on payment of such charges as may be imposed under the regulations, to provide such copies of the contents of any such register to any person applying for a copy as may be prescribed.

[<sup>F15</sup>(4A) Regulations under this section may include provision for—

- (a) the registration of a person as a carrier of controlled waste to be subject to conditions relating to the vehicles used by him in transporting such waste; or
- (b) the revocation by a regulation authority of the registration of a carrier of controlled waste who has breached a condition imposed on him under paragraph (a) above.]

[<sup>F15</sup>(4B) Provision contained in any regulations under this section by virtue of subsection (4A) above may, in particular, include provision—

- (a) for inspection by a regulation authority of the vehicles of registered carriers of controlled waste for the purpose of ensuring compliance with conditions imposed under subsection (4A)(a) above;
- (b) for a regulation authority to impose charges on registered carriers of controlled waste in respect of such inspections.]

(5) Subsections (2) [<sup>F16</sup>to (4)][<sup>F16</sup> to (4B) ] above are without prejudice to the generality of subsection (1) above.

#### Textual Amendments

- F6** Words in s. 2(1), (2)(b)(e), (3)(a)(e), (4)(a)(b)(c) 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
- F7** Words in s. 2(2)(c) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 36(2)(a), 108(4), [Sch. 5 Pt. 4](#)
- F8** S. 2(2)(d) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 36(2)(b), 108(4), [Sch. 5 Pt. 4](#)
- F9** Words in s. 2(2)(e) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 36(2)(c), 108(4), [Sch. 5 Pt. 4](#)
- F10** S. 2(3)(b) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 36(3), 108(4), [Sch. 5 Pt. 4](#)
- F11** S. 2(3)(e) repealed (1.4.1998) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 37(2)(a), [Sch. 24](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1998/604, [art. 2](#)
- F12** S. 2(3A) added (1.2.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 37\(2\)\(b\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1996/186, [art. 2](#)
- F13** Words in s. 2(3A) substituted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 36(4)(a), 108(4)
- F14** S. 2(3A)(a) repealed (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 36(4)(b), 108(4), [Sch. 5 Pt. 4](#)

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- F15** S. 2(4A)(4B) inserted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 36\(5\)](#), 108(4)
- F16** Words in s. 2(5) substituted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 36\(6\)](#), 108(4)

#### Commencement Information

- I2** S. 2 wholly in force at 16.07.1991 see s. 11(2) and [S.I. 1991/1618](#), [art. 2\(a\)](#).

### 3 Restrictions on power under section 2. **E+W+S**

- (1) Nothing in any regulations under section 2 above shall authorise a [<sup>F17</sup>disposal authority][<sup>F17</sup>regulation authority] to refuse an application for registration except where—
- there has, in relation to that application, been a contravention of the requirements of any regulations made by virtue of subsection (2)(a) of that section; or
  - the applicant or another relevant person has been convicted of a prescribed offence and, in the opinion of the authority, it is undesirable for the applicant to be authorised to transport controlled waste.
- (2) Nothing in any regulations under section 2 above shall authorise any [<sup>F17</sup>disposal authority][<sup>F17</sup>regulation authority] to revoke any person's registration as a carrier of controlled waste except [<sup>F18</sup> in accordance with regulations under subsection (4A) of that section or ] where—
- that person or another relevant person has been convicted of a prescribed offence; and
  - in the opinion of the authority, it is undesirable for the registered carrier to continue to be authorised to transport controlled waste;
- but registration in accordance with any regulations under that section shall cease to have effect after such period as may be prescribed or if the registered carrier gives written notice requiring the removal of his name from the register.
- (3) Regulations under section 2 above may require every registration in respect of a business which is or is to be carried on by a partnership to be a registration of all the partners and to cease to have effect if any of the partners ceases to be registered or if any person who is not registered becomes a partner.
- (4) Nothing in any regulations under section 2 above shall have the effect of bringing the revocation of any person's registration as a carrier of controlled waste into force except—
- after the end of such period as may be prescribed for appealing against the revocation under section 4 below; or
  - where that person has indicated, within that period, that he does not intend to make or continue with an appeal.
- (5) In relation to any applicant for registration or registered carrier, another relevant person shall be treated for the purposes of any provision made by virtue of subsection (1) or (2) above as having been convicted of a prescribed offence if—
- any person has been convicted of a prescribed offence committed by him in the course of his employment by the applicant or registered carrier or in the course of the carrying on of any business by a partnership one of the members of which was the applicant or registered carrier;

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- [<sup>F19</sup>(aa) a partnership has been convicted of a prescribed offence committed at a time when the applicant or registered carrier was a member of that partnership;]
- (b) a body corporate has been convicted of a prescribed offence committed at a time when the applicant or registered carrier was a director, manager, secretary or other similar officer of that body corporate; [<sup>F20</sup>or]
- [<sup>F21</sup>(ba) where the applicant or registered carrier is a partnership, a person who is a member of that partnership—
- (i) has been convicted of a prescribed offence;
- (ii) was a member of another partnership at a time when a prescribed offence of which that other partnership has been convicted was committed; or
- (iii) was a director, manager, secretary, or other similar officer of a body corporate at a time when a prescribed offence of which that body corporate has been convicted was committed; or]
- (c) where the applicant or registered carrier is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate—
- (i) has been convicted of a prescribed offence; [<sup>F22</sup>or]
- [<sup>F23</sup>(ia) was a member of a partnership at a time when a prescribed offence of which that partnership has been convicted was committed; or]
- (ii) was a director, manager, secretary or other similar officer of another body corporate at a time when a prescribed offence [<sup>F24</sup>for][<sup>F24</sup>of] which that other body corporate has been convicted was committed.
- (6) In determining for the purposes of any provision made by virtue of subsection (1) or (2) above whether it is desirable for any individual to be or to continue to be authorised to transport controlled waste, a [<sup>F17</sup>disposal authority][<sup>F17</sup>regulation authority] shall have regard, in a case in which a person other than the individual has been convicted of a prescribed offence, to whether that individual has been a party to the carrying on of a business in a manner involving the commission of prescribed offences.

#### Textual Amendments

- F17** Words in s. 3(1)(2)(6) 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
- F18** Words in s. 3(2) inserted (E.W.) (7.6.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 36\(7\)](#), 108(4)
- F19** S. 3(5)(aa) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(a\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F20** Word in s. 3(5) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(b\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F21** S. 3(5)(ba) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(c\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F22** Word in s. 3(5)(c) repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(d\)\(i\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F23** S. 3(5)(c)(ia) inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(d\)\(ii\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.
- F24** Word in s. 3(5)(c)(ii) substituted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), [ss. 47\(d\)\(iii\)](#), 61(2); S.S.I. 2014/160, art. 2(1)(2), Sch.

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

- C2** S. 3 modified (E.W.) (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), regs. 1(2), **24(2)** (with regs. 2, 47(2))
- C3** S. 3(5)(6) modified (E.W.) (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), regs. 1(2), **24(3)** (with regs. 2, 47(2))

#### Commencement Information

- I3** S. 3 wholly in force; s. 3 in force for certain purposes at 16.07.1991 see s. 11(2) and [S.I. 1991/1618](#), **art. 2(b)**; and s. 3 fully in force at 14.10.1991 by [S.I. 1991/1618](#), **art. 3**.

## 4 Appeals against refusal of registration etc. **E+W+S**

- (1) Where a person has applied to a [<sup>F25</sup>disposal authority][<sup>F25</sup>regulation authority] to be registered in accordance with any regulations under section 2 above, he may appeal to the Secretary of State if—
- his application is refused; or
  - the relevant period from the making of the application has expired without his having been registered;
- and for the purposes of this subsection the relevant period is two months or, except in the case of an application for the renewal of his registration by a person who is already registered, such longer period as may be agreed between the applicant and the disposal authority in question.
- (2) A person whose registration as a carrier of controlled waste has been revoked may appeal against the revocation to the Secretary of State.
- (3) On an appeal under this section the Secretary of State may, as he thinks fit, either dismiss the appeal or give the [<sup>F25</sup>disposal authority][<sup>F25</sup>regulation authority] in question a direction to register the appellant or, as the case may be, to cancel the revocation.
- (4) Where on an appeal made by virtue of subsection (1)(b) above the Secretary of State dismisses an appeal, he shall direct the [<sup>F25</sup>disposal authority][<sup>F25</sup>regulation authority] in question not to register the appellant.
- (5) It shall be the duty of a [<sup>F25</sup>disposal authority][<sup>F25</sup>regulation authority] to comply with any direction under this section.
- (6) The Secretary of State may by regulations make provision as to the manner in which and time within which an appeal under this section is to be made and as to the procedure to be followed on any such appeal.
- (7) Where an appeal under this section is made in accordance with regulations under this section—
- by a person whose appeal is in respect of such an application for the renewal of his registration as was made, in accordance with regulations under section 2 above, at a time when he was already registered; or
  - by a person whose registration has been revoked,
- that registration shall continue in force, notwithstanding the expiry of the prescribed period or the revocation, until the appeal is disposed of.
- (8) For the purposes of subsection (7) above an appeal is disposed of when any of the following occurs, that is to say—

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- (a) the appeal is withdrawn;
- (b) the appellant is notified by the Secretary of State or the [<sup>F25</sup>disposal authority][<sup>F25</sup>regulation authority] in question that his appeal has been dismissed; or
- (c) the [<sup>F25</sup>disposal authority][<sup>F25</sup>regulation authority] comply with any direction of the Secretary of State to renew the appellant's registration or to cancel the revocation.

[<sup>F26</sup>(9) This section is subject to section 114 of the Environment Act 1995 (delegation or reference of appeals etc ). ]

#### Textual Amendments

- F25** Words in S. 4(1)(3)(4)(5)(8)(b)(c) 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
- F26** S. 4(9) added (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 37(3)** (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1996/186, **art. 3**

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

- C4** S. 4: power to delegate functions conferred (1.4.1996) by [1995 c. 25](#), s. 114(2)(a)(ii) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1996/186, **art. 3**
- C5** S. 4 modified (E.W.) (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011](#) (S.I. 2011/988), regs. 1(2), **24(2)** (with [regs. 2](#), 47(2))

#### Commencement Information

- I4** S. 4 wholly in force; s. 4(6) in force at 16.07.1991 see s. 11(2) and [S.I. 1991/1618](#), **art. 2(a)**; and s. 4 fully in force at 14.10.1991 by [S.I. 1991/1618](#), **art. 3**.

### <sup>F275</sup> **Duty to produce authority to transport controlled waste. S**

- (1) If it reasonably appears to any duly authorised officer of a [<sup>F28</sup>disposal authority][<sup>F28</sup>regulation authority] or to a constable that any controlled waste is being or has been transported in contravention of section 1(1) above, he may—
- (a) stop any person appearing to him to be or to have been engaged in transporting that waste and require that person to produce his authority or, as the case may be, his employer's authority for transporting that waste; and
  - (b) search any vehicle that appears to him to be a vehicle which is being or has been used for transporting that waste, carry out tests on anything found in any such vehicle and take away for testing samples of anything so found.
- (2) Nothing in subsection (1) above shall authorise any person other than a constable in uniform to stop a vehicle on any road.
- (3) Subject to the following provisions of this section, a person who is required by virtue of this section to produce an authority for transporting controlled waste shall do so by producing it forthwith to the person making the requirement, by producing it at the prescribed place and within the prescribed period or by sending it to that place within that period.
- (4) A person shall be guilty of an offence under this section if he—



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- (a) intentionally obstructs any authorised officer of a [F28 disposal authority][F28 regulation authority] or constable in the exercise of the power conferred by subsection (1) above; or
  - (b) subject to subsection (5) below, fails without reasonable excuse to comply with a requirement imposed in exercise of that power;
- and in paragraph (b) above the words “ without reasonable excuse ” shall be construed in their application to Scotland, as in their application to England and Wales, as making it a defence for a person against whom proceedings for the failure are brought to show that there was a reasonable excuse for the failure, rather than as requiring the person bringing the proceedings to show that there was no such excuse.
- (5) A person shall not be guilty of an offence by virtue of subsection (4)(b) above unless it is shown—
- (a) that the waste in question was controlled waste; and
  - (b) that that person did transport it to or from a place in Great Britain.
- (6) For the purposes of this section a person’s authority for transporting controlled waste is—
- (a) his certificate of registration as a carrier of controlled waste or such a copy of that certificate as satisfies prescribed requirements; or
  - (b) such evidence as may be prescribed that he is not required to be registered as a carrier of controlled waste.
- (7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Extent Information

- E1** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F27** Ss. 5, 5A substituted for s. 5 (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E. for specified purposes, 27.10.2006 for W. for specified purposes, 3.3.2015 for E. for specified purposes and 6.4.2015 for remaining purposes) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 37, 108\(1\), \(2\)](#); [S.I. 2006/768, art. 3](#); [S.I. 2006/795, art. 2\(3\), Sch. 2](#); [S.I. 2006/2797, art. 2\(h\)](#); [S.I. 2015/425, arts. 2\(a\), 4\(1\)\(a\)](#)
- F28** Words in s. 5(1)(4)(a) 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](#)

#### Commencement Information

- I5** S. 5 wholly in force; s. 5(3) and (6) in force for certain purposes at 16.07.1991 see s. 11(2) and [S.I. 1991/1618, art. 2\(b\)](#); and s. 5 fully in force at 01.04.1992 by [S.I. 1991/1618, art. 4](#).

#### [F275] **Power to require production of authority, stop and search etc** **E+W**

- (1) This section applies where an authorised officer of a regulation authority or a constable reasonably believes that controlled waste has been, is being or is about to be transported in contravention of section 1(1) above.
- (2) The authorised officer or constable may—

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- (a) require any person appearing to him to be or to have been engaged in transporting that waste to produce his (or, as the case may be, his employer's) authority to do so;
  - (b) search any vehicle that appears to him to be a vehicle that has been, is being or is about to be used for transporting that waste;
  - (c) carry out tests on anything found in any such vehicle (including by taking away samples for testing of anything so found);
  - (d) seize any such vehicle and any of its contents.
- (3) For the purposes of subsection (2)(a) above, a person's authority for transporting controlled waste is—
  - (a) his certificate of registration as a carrier of controlled waste;
  - (b) such copy of that certificate as satisfies requirements specified in regulations made by the appropriate person; or
  - (c) such evidence as may be so specified that he is not required to be registered as a carrier of controlled waste.
- (4) Where an authorised officer or constable has required a person to produce an authority under subsection (2)(a) above, the person must do so—
  - (a) by producing it forthwith to the authorised officer or constable;
  - (b) by producing it at a place and within a period specified in regulations made by the appropriate person; or
  - (c) by sending it to that place and within that period.
- (5) In acting under subsection (2) above an authorised officer or constable may—
  - (a) stop any vehicle as referred to in paragraph (b) of that subsection (but only a constable in uniform may stop a vehicle on any road);
  - (b) enter any premises for the purpose specified in paragraph (b) or (d) of that subsection.
- (6) A vehicle or its contents seized under subsection (2)(d) above—
  - (a) by an authorised officer of a regulation authority, are seized on behalf of that authority;
  - (b) by a constable in the presence of [<sup>F61</sup>or at the request of] an authorised officer of a regulation authority, are seized on behalf of that authority;
  - (c) by a constable [<sup>F62</sup>in any other case], 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 comply with a requirement imposed under paragraph (a) of subsection (2) above;
  - (b) 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 that subsection;
  - (c) he otherwise intentionally obstructs an authorised officer or constable in the exercise of a power under that subsection.
- (8) A person is not guilty of an offence by virtue of subsection (7)(a) above unless it is shown—
  - (a) that the waste in question was controlled waste; and
  - (b) that the waste was or was being transported to or from a place in Great Britain.

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- (9) Where an authorised officer or constable has stopped a vehicle under subsection (5) above, he may (in addition to any requirement that may be imposed under paragraph (a) of subsection (2) above) 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.
- (10) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement under subsection (9) 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.
- (11) 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.]

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F27** Ss. 5, 5A substituted for s. 5 (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E. for specified purposes, 27.10.2006 for W. for specified purposes, 3.3.2015 for E. for specified purposes and 6.4.2015 for remaining purposes) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 37, 108\(1\), \(2\)](#); [S.I. 2006/768, art. 3](#); [S.I. 2006/795, art. 2\(3\)](#), [Sch. 2](#); [S.I. 2006/2797, art. 2\(h\)](#); [S.I. 2015/425, arts. 2\(a\), 4\(1\)\(a\)](#)
- F61** Words in [s. 5\(6\)\(b\)](#) inserted (E.W.) (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), [s. 147\(2\)\(h\)](#), [Sch. 10 para. 1\(a\)](#) (with [s. 144](#))
- F62** Words in [s. 5\(6\)\(c\)](#) substituted (E.W.) (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), [s. 147\(2\)\(h\)](#), [Sch. 10 para. 1\(b\)](#) (with [s. 144](#))

#### Commencement Information

- I5** S. 5 wholly in force; s. 5(3) and (6) in force for certain purposes at 16.07.1991 see [s. 11\(2\)](#) and [S.I. 1991/1618, art. 2\(b\)](#); and s. 5 fully in force at 01.04.1992 by [S.I. 1991/1618, art. 4](#).

### [<sup>F27</sup>5A Seizure of vehicles etc : supplementary **E+W+S**]

- (1) Where under section 5 above an authorised officer of a regulation authority or a constable seizes a vehicle or its contents (“seized property”) on behalf of a regulation authority, the authority may remove the seized property to such a place as the authority consider appropriate.
- (2) A regulation 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 a regulation authority in relation to the safe custody of seized property;

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- (b) the circumstances in which the authority 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 the 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 regulation 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 regulation authorities in relation to the performance of their functions under regulations under subsection (2) above.]

#### Textual Amendments

**F27** Ss. 5, 5A substituted for s. 5 (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E. for specified purposes, 27.10.2006 for W. for specified purposes, 3.3.2015 for E. for specified purposes and 6.4.2015 for remaining purposes) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\), ss. 37, 108\(1\), \(2\)](#); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 2(h); S.I. 2015/425, arts. 2(a), 4(1)(a)

#### [<sup>F29</sup>5B Fixed penalty notices for offences under section 5 **E+W**

- (1) This section applies where it appears to a regulation authority that a person has failed without reasonable excuse to comply with a requirement under section 5(2)(a) above (requirement to produce authority to transport waste).
- (2) The regulation authority may give that person a notice offering him the opportunity of discharging any liability to conviction for an offence under section 5(7)(a) above by payment of a fixed penalty.
- (3) Where a person is given a notice under this section in respect of an offence—
  - (a) no proceedings may be instituted for that offence before expiration of the period of fourteen days following the date of the notice; and
  - (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of the period.
- (4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (5) A notice under this section must also state—

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- (a) the period during which, by virtue of subsection (3) above, proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty; and
  - (c) the person to whom and the address at which the fixed penalty may be paid.
- (6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (5)(c) above at the address so mentioned.
- (7) Where a letter is sent in accordance with subsection (6) above payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (8) The form of a notice under this section must be such as the appropriate person may by order prescribe.
- (9) The fixed penalty payable to a regulation authority under this section is, subject to subsection (10) below, £300.
- (10) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (9) above.
- (11) The regulation authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (12) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, a regulation authority may make provision under subsection (11) above.
- (13) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer of the regulation authority, and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.
- (14) In this section “ chief finance officer ”, in relation to a regulation authority, means the person having responsibility for the financial affairs of the authority. ]

#### Textual Amendments

**F29** Ss. 5B, 5C inserted (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 38, 108\(1\), 108\(2\)](#); [S.I. 2006/768, art. 3](#); [S.I. 2006/795, art. 2\(3\)](#), [Sch. 2](#); [S.I. 2006/2797, art. 4\(q\)](#)

#### [<sup>F29</sup>5C Use of fixed penalties under section 5B **E+W**

- (1) This section applies in relation to amounts paid to a regulation authority in pursuance of notices under section 5B above (its “fixed penalty receipts”).
- (2) Fixed penalty receipts—

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- (a) where received by the Environment Agency, must be paid to the Secretary of State;
  - <sup>F30</sup> [ where received by the Natural Resources Body for Wales, must be paid to the Welsh Ministers;]
  - (aa) (b) where received by a waste collection authority, must be used in accordance with the following provisions of this section.
- (3) A waste collection authority may use its fixed penalty receipts only for the purposes of—
- (a) its functions under section 5 above (including functions relating to the enforcement of offences under that section);
  - (b) such other of its functions as may be specified in regulations made by the appropriate person.
- (4) Regulations under subsection (3)(b) above may in particular have the effect that an authority may use its fixed penalty receipts for the purposes of any of its functions.
- (5) A waste collection authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.
- (6) The appropriate person may by regulations—
- (a) make provision for what a waste collection authority is to do with its fixed penalty receipts—
    - (i) pending their being used for the purposes of functions of the authority referred to in subsection (3) above;
    - (ii) if they are not so used before such time after their receipt as may be specified by the order;
  - (b) make provision for accounting arrangements in respect of a waste collection authority's fixed penalty receipts.
- (7) The provision that may be made under subsection (6)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.
- (8) Before making regulations under this section, the appropriate person must consult—
- (a) the authorities to which the regulations are to apply;
  - (b) such other persons as the appropriate person thinks fit.
- (9) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003, to be regarded as included among the powers mentioned in subsection (2) of that section.]

#### Textual Amendments

- F29** Ss. 5B, 5C inserted (E.W.) (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 38, 108(1), 108(2)**; S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(q)
- F30** S. 5C(2)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 189** (with Sch. 7)

## 6 Seizure and disposal of vehicles used for illegal waste disposal. **E+W+S**

- <sup>F31</sup>(1) A justice of the peace or, in Scotland, a sheriff or a justice of the peace may issue a warrant to a [<sup>F32</sup>disposal authority][<sup>F32</sup>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 <sup>M1</sup> Control of Pollution Act 1974 [<sup>F33</sup> or section 33 of the Environmental Protection Act 1990 ] (prohibition on unlicensed [<sup>F34</sup> 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 [<sup>F32</sup>disposal authority][<sup>F32</sup>regulation authority] in respect of any vehicle, any duly authorised officer of the [<sup>F32</sup>disposal authority][<sup>F32</sup>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 [<sup>F32</sup>disposal authority][<sup>F32</sup>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 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 [<sup>F32</sup>disposal authority][<sup>F32</sup>regulation 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.
- <sup>F35</sup>(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

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- (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 [F32disposal authority][F32regulation 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 [F32disposal authority][F32regulation 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 [F32disposal authority][F32regulation 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 [F32disposal authority][F32regulation 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.]

#### 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

- F31** 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)
- F32** 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
- F33** 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
- F34** 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
- F35** 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

- I6** 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](#).



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**Marginal Citations**

**M1** 1974 c. 40.

**7 Further enforcement provisions. E+W+S**

(1) Subject to subsection (2) below, the provisions of sections <sup>F36</sup>91 to 94 of the <sup>M2</sup>Control of Pollution Act 1974 (powers of entry, power to obtain information and duty not to disclose information) <sup>F36</sup> <sup>F37</sup> [section 71] of the Environmental Protection Act 1990 (powers of entry, of dealing with imminent pollution and to obtain information) shall have effect as if the provisions of this Act were provisions of that Act and as if, in those sections, references to a <sup>F38</sup>relevant authority <sup>F38</sup> waste regulation authority ] were references to a <sup>F39</sup>disposal authority <sup>F39</sup>regulation authority].

<sup>F40</sup>(2) .....

- (3) A person shall be guilty of an offence under this subsection if he—
- (a) fails, without reasonable excuse, to comply with any requirement in pursuance of regulations under this Act to provide information to the Secretary of State or a <sup>F39</sup>disposal authority <sup>F39</sup>regulation authority]; or
  - (b) in complying with any such requirement, provides information which he knows to be false <sup>F41</sup>or misleading] in a material particular or recklessly provides information which is false <sup>F41</sup>or misleading] in a material particular; and in paragraph (a) above the words “without reasonable excuse” shall be construed in their application to Scotland, as in their application to England and Wales, as making it a defence for a person against whom proceedings for the failure are brought to show that there was a reasonable excuse for the failure, rather than as requiring the person bringing the proceedings to show that there was no such excuse.
- (4) A person guilty of an offence under subsection (3) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) Where the commission by any person of an offence under this Act is due to the act or default of some other person, that other person shall also be guilty of the offence; and a person may be charged with and convicted of an offence by virtue of this subsection whether or not proceedings for the offence are taken against any other person.
- (6) Where a body corporate is guilty of an offence under this Act (including where it is so guilty by virtue of subsection (5) above) in respect of any act or omission which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (7) Where the affairs of a body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

<sup>F40</sup>(8) .....

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989. (See end of Document for details)*

### Textual Amendments

- F36** Words in s. 7(1) substituted (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 31\(4\)\(a\)](#), S.I. 1991/1319, art. 2
- F37** Words in s. 7(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 37\(5\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1996/186, [art. 3](#)
- F38** Words in s. 7(1) substituted (E.W.) (31.3.2004 for W., 31.3.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 55\(2\)](#), 93; S.I. 2004/690, art. 3(h); S.I. 2004/999, art. 2(m); S.I. 2004/690, art. 3(h); S.I. 2004/999, art. 2(m)
- F39** Words in s. 7(1)(3)(a)(8) 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
- F40** S. 7(2)(8) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), [Sch. 22 para. 37\(6\)\(7\)](#), [Sch. 24](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1996/186, [art. 3](#)
- F41** Words in s. 7(3)(b) inserted (1.4.1996) by 1995 c. 25, s. 112, [Sch. 19 para. 3](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1996/186, [art. 3](#)

### Modifications etc. (not altering text)

- C6** S. 7(1) modified (E.W.) (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), [regs. 1\(2\)](#), [24\(4\)](#) (with [regs. 2](#), [47\(2\)](#))

### Commencement Information

- I7** S. 7 wholly in force at 14.10.1991 see s. 11(2) and S.I. 1991/1618, [art. 3](#).

### Marginal Citations

- M2** 1974 c. 40.

## 8 Regulations. **E+W+S**

(1) The powers of the Secretary of State under this Act to make regulations<sup>[F42]</sup> or orders ] shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>[F43]</sup>(1A) The powers of the National Assembly for Wales to make regulations or orders under sections 5 to 5C above are exercisable by statutory instrument.]

- (2) Regulations<sup>[F44]</sup> or orders ] made in exercise of any such power may—
- contain such supplemental, consequential and transitional provision as the <sup>[F45]</sup>Secretary of State<sup>[F45]</sup> person making the regulations or order ]] considers appropriate; and
  - make different provision for different cases (including different provision for different persons, circumstances or localities).

### Textual Amendments

- F42** Words in s. 8(1) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108, [Sch. 4 para. 11\(2\)](#)
- F43** S. 8(1A) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108, [Sch. 4 para. 11\(3\)](#)
- F44** Words in s. 8(2) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), s. 108, [Sch. 4 para. 11\(4\)\(a\)](#)

*Changes to legislation:* There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989. (See end of Document for details)

**F45** Words in s. 8(2)(a) substituted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005](#) (c. 16), s. 108, [Sch. 4 para. 11\(4\)\(b\)](#)

#### Commencement Information

**I8** S. 8 wholly in force at 16.07.1991 see s. 11(2) and [S.I. 1991/1618, art. 2\(a\)](#).

## 9 Interpretation. **E+W+S**

(1) In this Act—

[<sup>F46</sup> “ appropriate person ” means—

- (a) the Secretary of State, in relation to England;
- (b) the National Assembly for Wales, in relation to Wales.]

“controlled waste” has [<sup>F47</sup>, subject to subsection (2) below,][<sup>F47</sup>, at any time,] the same meaning as [<sup>F48</sup>in Part I of the Control of Pollution Act 1974][<sup>F48</sup>for the purposes of Part II of the Environmental Protection Act 1990];

[<sup>F49</sup> “ disposal authority ” has the same meaning as in that Part of that Act but, in relation to any area with respect to which the functions of a disposal authority are carried out by more than one such authority, means whichever one of those authorities for the time being has responsibility for the issue of disposal licences under that Part; ]

“prescribed” means prescribed by regulations made by the Secretary of State;

[<sup>F50</sup> “ regulation authority ” means—

- (a) in relation to England <sup>F51</sup> ..., the Environment Agency; <sup>F51</sup> ...
- (aa) [<sup>F52</sup>in relation to Wales, the Natural Resources Body for Wales; and]
- (b) in relation to Scotland, the Scottish Environment Protection Agency;

and any reference to the area of a regulation authority shall accordingly be construed as a reference to any area in England and [<sup>F53</sup>, Wales or Scotland as the case may be];]

“road” has the same meaning as in the <sup>M3</sup>Road Traffic Act 1988;

“transport”, in relation to any controlled waste, includes the transport of that waste by road or rail or by air, sea or inland waterway but does not include moving that waste from one place to another by means of any pipe or other apparatus that joins those two places.

“vehicle” means any motor vehicle or trailer within the meaning of the <sup>M4</sup>Road Traffic Regulation Act 1984.

[<sup>F54</sup>(1A) In sections 5 to 7 above “ regulation authority ” also means a waste collection authority falling within section 30(3)(a), (b) or (bb) of the Environmental Protection Act 1990. ]

[<sup>F55</sup>(1AA) But, in the case of a waste collection authority that is a regulation authority by virtue of subsection (1A), the powers conferred on that authority under sections 5 to 7 above are not exercisable by that authority in relation to specified persons (within the meaning of Part 8 of the Waste (England and Wales) Regulations 2011).]

[<sup>F56</sup>(1B) For the purposes of any provision of this Act, “ authorised officer ” in relation to any authority means an officer of the authority who is authorised in writing by the authority for the purposes of that provision. ]

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989. (See end of Document for details)*

[<sup>F57</sup>(2) Subsection (4) of section 30 of the <sup>M5</sup> Control of Pollution Act 1974 (power to extend the meaning of controlled waste for the purposes of prescribed provisions of Part I of that Act) and any regulations made under that subsection before the coming into force of this subsection shall have effect as if the provisions of this Act were contained in Part I of that Act. ]

#### Textual Amendments

- F46** Words in s. 9(1) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 39\(2\)](#), [108\(1\)](#), [108\(2\)](#)
- F47** Words “, at any time,” substituted (*prosp.*) for words “, subject to subsection (2) below,” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [ss. 162\(1\)](#), [164\(3\)](#), [Sch. 15 para. 31\(5\)\(a\)](#)
- F48** Words “for the purposes of Part II of the Environmental Protection Act 1990” substituted (*prosp.*) for words “in Part I of the Control of Pollution Act 1974” by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [ss. 162\(1\)](#), [164\(3\)](#), [Sch. 15 para. 31\(5\)\(a\)](#)
- F49** Definition repealed (31.5.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [s. 162\(1\)\(2\)](#), [Sch. 15 para. 31\(5\)\(b\)](#), [Sch. 16 Pt. 11](#), S.I. 1991/1319, [art. 2](#)
- F50** Definition in s. 9(1) substituted (1.4.1996) by virtue of [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 37\(8\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#)); S.I. 1996/186, [art. 3](#)
- F51** Words in s. 9(1)(a) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 190\(a\)](#) (with [Sch. 7](#))
- F52** S. 9(1)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 190\(b\)](#) (with [Sch. 7](#))
- F53** Words in s. 9(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 190\(c\)](#) (with [Sch. 7](#))
- F54** S. 9(1A) inserted (E.W.) (31.3.2004 for W., 31.3.2004 for E.) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), [ss. 55\(3\)](#), [93](#); S.I. 2004/690, [art. 3\(h\)](#); S.I. 2004/999, [art. 2\(m\)](#); S.I. 2004/690, [art. 3\(h\)](#); S.I. 2004/999, [art. 2\(m\)](#)
- F55** S. 9(1AA) inserted (E.W.) (29.3.2011) by [The Waste \(England and Wales\) Regulations 2011 \(S.I. 2011/988\)](#), [reg. 1\(2\)](#), [Sch. 4 para. 1](#) (with [regs. 2](#), [47\(2\)](#))
- F56** S. 9(1B) inserted (E.W.) (7.4.2005) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 39\(3\)](#), [108](#)
- F57** S. 9(2) repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [ss. 162\(1\)\(2\)](#), [164\(3\)](#), [Sch. 15 para. 31\(6\)](#), [Sch. 16 Pt. II](#)

#### Commencement Information

- I9** S. 9 wholly in force at 16.07.1991 see [s. 11\(2\)](#) and [S.I. 1991/1618](#), [art. 2\(a\)](#).

#### Marginal Citations

- M3** 1988 c. 52.  
**M4** 1984 c. 27.  
**M5** 1974 c. 40.

## 10 Expenses. **E+W+S**

There shall be paid out of money provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State in consequence of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

*Changes to legislation: There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989. (See end of Document for details)*

**Commencement Information**

**I10** S. 10 wholly in force at 16.07.1991 see s. 11(2) and S.I. 1991/1618, **art. 2(a)**.

[<sup>F58</sup>**10A Application to the Isles of Scilly.** **E+W+S**

- (1) Subject to the provisions of any order under this section, this Act shall not apply in relation to the Isles of Scilly.
- (2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Act to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.
- (3) An order under this section may—
  - (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
  - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.
- (4) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F58** S. 10A inserted (1.2.1996) by 1995 c. 25, s. 118(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/186, **art. 2**

**11 Short title, commencement and extent.** **E+W+S**

- (1) This Act may be cited as the Control of Pollution (Amendment) Act 1989.
- <sup>F59</sup>(2) .....
- <sup>F60</sup>(3) .....
- (4) This Act shall not extend to Northern Ireland.

**Subordinate Legislation Made**

**P2** S. 11(2) power fully exercised: different dates appointed for specified provisions by S.I. 1991/1618.

**Textual Amendments**

**F59** S. 11(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**  
**F60** S. 11(3) ceased to have effect (1.2.1996) and repealed (1.4.1996) by 1995 c. 25, ss. 118(2), 120(3), **Sch. 24** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/186, **arts. 2, 3**

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**Changes to legislation:** There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989. (See end of Document for details)

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#### **Commencement Information**

**III** S. 11 wholly in force at 16.07.1991 see s. 11(2) and S.I. 1991/1618, **art. 2(a)**.

**Changes to legislation:**

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