



Control of Pollution (Amendment) Act 1989

1989 CHAPTER 14

^{F1}5 **Duty to produce authority to transport controlled waste. S**

- (1) If it reasonably appears to any duly authorised officer of a [^{F2}disposal authority][^{F2}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—
 - (a) intentionally obstructs any authorised officer of a [^{F2} disposal authority][^{F2} 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.

Status: Point in time view as at 09/01/2022. There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

Changes to legislation: There are currently no known outstanding effects for the Control of Pollution (Amendment) Act 1989, Section 5. (See end of Document for details)

- (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

- F1** 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\(1\)\(a\)](#)
- F2** 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

- II** 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](#).

^{F15} **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—
- (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—

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- (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 [^{F3}or at the request of] an authorised officer of a regulation authority, are seized on behalf of that authority;
 - (c) by a constable [^{F4}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.
- (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;

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- (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

- F1** 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\(1\)\(a\)](#)
- F3** 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)
- F4** 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

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Changes to legislation:

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