



New South Wales

Protection of the Environment Operations Amendment (Confiscation and Forfeiture of Vehicles) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Protection of the Environment Operations Act 1997* (“the Act”) to provide for confiscation and forfeiture of vehicles used in connection with the illegal dumping of rubbish. The proposed amendment (new Part 5.6B of the Act):

- (a) enables an authorised officer of a regulatory authority (eg the EPA or a local council) to seize a vehicle that the officer has reason to believe has been used by a person in connection with offences under the Act relating to waste disposal and the dumping or depositing of litter (eg domestic or commercial refuse or rubbish),
- (b) provides that the authorised officer can only seize such a vehicle if the officer is satisfied that the offence concerned was committed in the course of carrying on a business or otherwise for fee or reward, and

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- (c) provides that a court may order the forfeiture of any such vehicle if the court finds a person guilty of the offence in respect of which the vehicle was seized, and
- (d) requires a confiscated vehicle to be returned to its owner if proceedings for the offence in respect of which the vehicle was seized are not commenced within 28 days after its seizure.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendment to the *Protection of the Environment Operations Act 1997* set out in Schedule 1.

Schedule 1 amends the *Protection of the Environment Operations Act 1997* in the manner described in the overview above.



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Protection of the Environment Operations Amendment (Confiscation and Forfeiture of Vehicles) Bill 2001

No. , 2001

A Bill for

An Act to amend the *Protection of the Environment Operations Act 1997* to provide for the confiscation and forfeiture of vehicles used in connection with the illegal dumping of rubbish, and for related purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Protection of the Environment Operations Amendment (Confiscation and Forfeiture of Vehicles) Act 2001</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Amendment of Protection of the Environment Operations Act 1997 No 156	7 8
The <i>Protection of the Environment Operations Act 1997</i> is amended as set out in Schedule 1.	9 10

Schedule 1	Amendment	1
	(Section 3)	2
Part 5.6B		3
Insert after Part 5.6A		4
Part 5.6B	Confiscation and forfeiture of vehicles used in connection with illegal dumping	5 6 7
146F	Definitions	8
	In this Part:	9
	<i>forfeiture offence</i> means an offence under section 115, 145 or 145A.	10 11
	<i>vehicle</i> means a motor vehicle and includes a trailer.	12
146G	Confiscation of vehicle	13
	(1) An authorised officer may seize a vehicle that the officer has reason to believe has been used by a person in connection with a forfeiture offence, but only if the officer is satisfied that the offence was committed in the course of carrying on a business or otherwise for fee or reward.	14 15 16 17 18
	(2) Subsection (1) does not apply in relation to a forfeiture offence committed before the commencement of this Part.	19 20
146H	Forfeiture of vehicle by order of court	21
	(1) A court may order forfeiture of a vehicle that has been seized under section 146G in connection with a forfeiture offence if the court:	22 23 24
	(a) convicts a person of the offence, or	25
	(b) makes an order under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> in respect of the offence.	26 27 28

(2)	A vehicle ordered by a court to be forfeited (or the proceeds of sale of the vehicle) becomes the property of the State.	1 2
(3)	Any such vehicle:	3
(a)	may be sold or disposed of in such manner as the regulatory authority that instituted proceedings for the forfeiture offence thinks fit, or	4 5 6
(b)	may, if the regulatory authority is satisfied that such remedial clean-up action as may be directed by the regulatory authority in relation to the offence has been carried out, be returned to the owner of the vehicle.	7 8 9 10
146I	Return of vehicle if relevant offence proceedings not taken	11
	If:	12
(a)	a vehicle has been seized by an authorised officer under section 146G in connection with a forfeiture offence, and	13 14 15
(b)	proceedings for the offence are not instituted within 28 days after the seizure,	16 17
	the regulatory authority that appointed the authorised officer must return the vehicle to its owner.	18 19
146J	Return of confiscated vehicle	20
(1)	If a person disputes the seizure of a vehicle by an authorised officer under section 146G, the regulatory authority that appointed the officer may allow the vehicle to be delivered to the person disputing the seizure, subject to the person giving security to pay its value to the regulatory authority should the vehicle be forfeited by a court under section 146H.	21 22 23 24 25 26
(2)	A regulatory authority may, at any time, direct that a vehicle seized under section 146G by an authorised officer of that authority be returned to its owner on such conditions (if any) as the regulatory authority thinks fit. This subsection has effect whether or not forfeiture of the vehicle has taken place.	27 28 29 30 31
(3)	A person who contravenes a condition under subsection (2) is guilty of an offence.	32 33
	Maximum penalty: 25 penalty units.	34

(4)	A vehicle is returned to its owner for the purposes of this section if it is returned to the person who owns it or to a person from whose possession it was seized.	1 2 3
146K	Protection from liability	4
	The State, a regulatory authority, an authorised officer or any other person is not liable for the seizure of a vehicle under section 146G for which there was reasonable cause.	5 6 7
146L	Power of seizure	8
	The power conferred by section 146G to seize a vehicle includes:	9 10
	(a) a power to take charge of the vehicle, and	11
	(b) a power to remove the vehicle from the place where it is found, and	12 13
	(c) a power to guard the vehicle in or on that place or to secure it from interference.	14 15
146M	Access to information	16
	The Roads and Traffic Authority is authorised and required to provide an authorised officer, on request, with the following information, if available, relating to a person whom the authorised officer has reason to believe has committed a forfeiture offence:	17 18 19 20 21
	(a) the address of the person,	22
	(b) details of any vehicle registered in the name of the person.	23 24