
WELSH STATUTORY INSTRUMENTS

2007 No. 739 (W.67)

ENVIRONMENTAL PROTECTION, WALES

**The Environmental Offences (Fixed Penalties)
(Miscellaneous Provisions) (Wales) Regulations 2007**

Made - - - - 06 March 2007

Coming into force - - 15 March 2007

The National Assembly for Wales (“the National Assembly”) is, in relation to Wales, the appropriate person as defined—

- (a) in section 11(1) of the Refuse Disposal (Amenity) Act 1978(1), for the purpose of exercising the powers conferred by section 2A(11) of that Act;
- (b) in section 9(1) of the Control of Pollution (Amendment) Act 1989(2), for the purpose of exercising the powers conferred by section 5B(12) of that Act;
- (c) in section 29(1A)(b) of the Environmental Protection Act 1990(3), for the purpose of exercising the powers conferred by sections 34A(12) and 47ZB(4) and (5) of that Act;
- (d) in section 98(1A)(b) of the Environmental Protection Act 1990(4), for the purpose of exercising the powers conferred by sections 88(11) and 97A(1), (2) and (4) of that Act;
- (e) in section 11(2A)(b) of the Noise Act 1996(5), for the purpose of exercising the powers conferred by section 8A(4) and (5) of that Act;
- (f) in section 47(1) of the Anti-social Behaviour Act 2003(6), for the purpose of exercising the powers conferred by sections 43A(4) and (5) and 47(4) of that Act;
- (g) in section 9(2) of the Clean Neighbourhoods and Environment Act 2005(7), for the purpose of exercising the powers conferred by section 6(11) of that Act;
- (h) in section 66(b) of the Clean Neighbourhoods and Environment Act 2005, for the purpose of exercising the powers conferred by sections 59(12) and 60(4) and (5) of that Act;

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- (1) 1978 c. 3; the definition of the “appropriate person” in section 11(1) was inserted by section 14(3) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and section 2A was inserted by section 10 of the 2005 Act.
 - (2) 1989 c. 14; the definition of the “appropriate person” in section 9(1) was inserted by section 39(2) of the Clean Neighbourhoods and Environment Act 2005, and section 5B was inserted by section 38 of the 2005 Act.
 - (3) 1990 c. 43; section 29(1A) was inserted by section 51 of the Clean Neighbourhoods and Environment Act 2005, section 34A was inserted by section 45 of the 2005 Act and section 47ZB was inserted by section 48 of the 2005 Act.
 - (4) 1990 c. 43; section 98(1A) was inserted by section 26 of the Clean Neighbourhoods and Environment Act 2005, section 88(11) was inserted by section 19(6) of the 2005 Act, and section 97A was inserted by section 24 of the 2005 Act.
 - (5) 1996 c. 37; section 11(2A) was inserted by section 85(2) of the Clean Neighbourhoods and Environment Act 2005 and section 8A was inserted by section 82(2) of the 2005 Act.
 - (6) 2003 c. 38; section 43A was inserted by section 28(2) of the Clean Neighbourhoods and Environment Act 2005 and section 47(4) was inserted by section 30(2) of the 2005 Act.
 - (7) 2005 c. 16.

- (i) in section 81(1) of the Clean Neighbourhoods and Environment Act 2005, for the purpose of exercising the powers conferred by section 74(4) and (5) of that Act; and
- (j) in section 98(1)(b) of the Clean Neighbourhoods and Environment Act 2005, for the purpose of exercising the powers conferred by section 97(1)(a) and (2)(c) of that Act.

The National Assembly for Wales in exercise of the powers conferred upon it by section 67(1) of the Clean Neighbourhoods and Environment Act 2005 and the powers cited in sub-paragraphs (a) to (j) above, makes the following Regulations:

Title commencement and application

1.—(1) The title of these Regulations is the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Wales) Regulations 2007.

(2) These Regulations come into force on 15 March 2007.

(3) These Regulations apply in relation to Wales.

Prescribed ranges of fixed penalties

2.—(1) The amount of a fixed penalty capable of being specified by—

- (a) a principal litter authority in Wales under section 88(6A)(a) of the Environmental Protection Act 1990⁽⁸⁾;
- (b) a principal litter authority in Wales under paragraph 7(4)(a) of Schedule 3A to the Environmental Protection Act 1990⁽⁹⁾;
- (c) a relevant local authority in Wales under section 43A(1)(a) of the Anti-social Behaviour Act 2003;
- (d) a primary authority or a secondary authority in Wales under section 60(1)(a) of the Clean Neighbourhoods and Environment Act 2005 in relation to any dog control order made by that authority;
- (e) a local authority in Wales under section 74(2)(a) of the Clean Neighbourhoods and Environment Act 2005,

must not be less than £75 and not more than £150.

(2) The amount of a fixed penalty capable of being specified by—

- (a) a waste collection authority in Wales under section 47ZB(2)(a) of the Environmental Protection Act 1990;
- (b) a principal litter authority in Wales under section 94A(4)(a) of the Environmental Protection Act 1990⁽¹⁰⁾;
- (c) a local authority in Wales under section 8A(2)(a) of the Noise Act 1996;

must not be less than £100 and not more than £150.

(3) An authority acting under more than one of the provisions cited in paragraph (1) or (2) may specify a different amount under each such provision.

⁽⁸⁾ Section 88(6A) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005.

⁽⁹⁾ Schedule 3A, and section 94B which gives it effect, were inserted by section 23 of the Clean Neighbourhoods and Environment Act 2005.

⁽¹⁰⁾ 1990 c. 43; section 94A was inserted by section 22 of the Clean Neighbourhoods and Environment Act 2005.

Lesser amounts of fixed penalties

3.—(1) Where—

- (a) a litter authority in Wales acting under section 88(7) of the Environmental Protection Act 1990⁽¹¹⁾;
- (b) a principal litter authority in Wales acting under paragraph 7(5) of Schedule 3A to the Environmental Protection Act 1990;
- (c) a local authority in Wales acting under section 43A(3) of the Anti-social Behaviour Act 2003;
- (d) a primary authority or a secondary authority in Wales acting under section 60(3) of the Clean Neighbourhoods Act 2005;
- (e) a local authority in Wales acting under section 74(3) of the Clean Neighbourhoods and Environment Act 2005,

makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, such lesser amount must not be less than £50.

(2) Where—

- (a) a waste collection authority in Wales acting under section 47ZB(3) of the Environmental Protection Act 1990;
- (b) a principal litter authority in Wales acting under section 94A(5) of the Environmental Protection Act 1990;
- (c) a local authority in Wales acting under section 8A(3) of the Noise Act 1996;
- (d) a local authority acting under section 6(10) of the Clean Neighbourhoods and Environment Act 2005,

makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, such lesser amount must not be less than £60.

(3) Where a local authority acting under section 2A(10) of the Refuse Disposal (Amenity) Act 1978⁽¹²⁾ makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, such lesser amount must not be less than £120.

(4) Where—

- (a) a regulation authority acting under section 5B(11) of the Control of Pollution (Amendment) Act 1989⁽¹³⁾;
- (b) an enforcement authority acting under section 34A(11) of the Environmental Protection Act 1990⁽¹⁴⁾,

makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, such lesser amount must not be less than £180.

Condition to be satisfied by a person before a secondary authority may authorise that person for the purpose of giving fixed penalty notices

4. The condition to be satisfied by a person before a secondary authority may authorise that person in writing for the purpose of giving notices under—

- (a) section 88 of the Environmental Protection Act 1990;
- (b) section 43(1) of the Anti-social Behaviour Act 2003;

⁽¹¹⁾ 1990 c. 43; section 88(7) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005.

⁽¹²⁾ 1978 c. 3; section 2A was inserted by section 10 of the Clean Neighbourhoods and Environment Act 2005.

⁽¹³⁾ 1989 c. 14; section 5B was inserted by section 38 of the Clean Neighbourhoods and Environment Act 2005.

⁽¹⁴⁾ 1990 c. 43; section 34A was inserted by section 45 of the Clean Neighbourhoods and Environment Act 2005.

(c) section 59 of the Clean Neighbourhoods and Environment Act 2005, is that the person must successfully complete a fixed penalty training course.

Use of fixed penalty receipts by community councils

5.—(1) A community council may use any amounts it receives in pursuance of notices under—

- (a) section 88 (fixed penalty notices for leaving litter) of the Environmental Protection Act 1990⁽¹⁵⁾;
- (b) section 43(1) (penalty notices for graffiti and fly-posting) of the Anti-social Behaviour Act 2003⁽¹⁶⁾;
- (c) section 59 (fixed penalty notices for offences under dog control orders) of the Clean Neighbourhoods and Environment Act 2005,

only for the purposes of the functions specified in paragraph (2).

(2) The functions specified for the purposes of this regulation are the functions under—

- (a) section 88 of the Environmental Protection act 1990;
- (b) section 43 of the anti-social Behaviour Act 2003;
- (c) Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005.

(3) A community council must supply to the National Assembly such information in relation to amounts it receives in connection with the provisions specified in paragraph (1) as the National Assembly may require.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹⁷⁾

6 March 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

(15) 1990 c. 43; section 88(9)(f), as amended by section 19(1) and (4) of the Clean Neighbourhoods and Environment Act 2005, includes community councils in the list of authorities defined as “litter authorities”, the authorised officers of which are empowered to issue fixed penalty notices under that section.

(16) 2003 c. 38; by virtue of qualifying as a litter authority for the purposes of section 88 of the Environmental Protection Act 1990 a community council is also a local authority for the purposes of sections 43 to 43B and 45 of the Anti-social Behaviour Act 2003, authorised officers of which are empowered to issue fixed penalty notices under section 43 of that Act.

(17) 1998 (c. 38).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to Wales.

The Regulations prescribe the ranges within which the amounts of certain fixed penalties that are capable of being specified (in place of the amount prescribed in the relevant legislation) by a local authority (as variously described in the relevant legislation) are required to fall (*regulation 2*).

The Regulations also prescribe the minimum amount of fixed penalty that a local authority may (if it chooses to do so) treat as full payment of the fixed penalty where a lesser amount than the full prescribed amount (whether this is the amount specified by the local authority, or the amount prescribed in the relevant legislation) is paid within such period of less than 14 days as may be specified by the local authority in the notice (*regulation 3*).

Accordingly, in respect of a notice of a fixed penalty that is capable of being issued for certain offences for which the amount prescribed in the relevant legislation is £75, the Regulations prescribe that the range within which a local authority may choose to specify its own locally applicable amount is between £75 and £150 (*regulation 2(1)*). If a local authority decides to treat a lesser sum paid within a specified period as full payment of the fixed penalty, the Regulations provide that that lesser sum must not be less than £50 (*regulation 3(1)*).

In respect of certain other offences, for which the amount of fixed penalty prescribed in the relevant legislation is £100, the Regulations prescribe that the range within which a local authority may choose to specify its own locally applicable amount is between £100 and £150 (*regulation 2(2)*). In respect of any of those offences, if a local authority decides to treat a lesser sum paid within a specified period as full payment of the fixed penalty, the Regulations provide that that lesser sum shall not be less than £60 (*regulation 3(2)(a), (b) and (c)*).

In respect of other offences, for which the amounts of fixed penalty prescribed in the relevant legislation are, respectively, £100, £200 and £300 (but in each case with no facility for an authority to specify a different locally applicable amount), an authority may still decide to treat a lesser sum paid within a specified period as full payment of the fixed penalty, and the Regulations provide that those lesser sums shall not be less than £60 (*regulation 3(2)(d)*), £120 (*regulation 3(3)*) or £180 (*regulation 3(4)*), respectively.

The Regulations also prescribe the condition that must be satisfied before a person may be authorised by a community council for the purposes of giving a fixed penalty notice under section 88 of the Environmental Protection Act 1990 (c. 43), section 43(1) of the Anti-social Behaviour Act 2003 (c. 38) or section 59 of the Clean Neighbourhoods and Environment Act 2005 (c. 16). The condition is that a person must successfully complete a fixed penalty training course (*regulation 4*).

The Regulations also provide that a community council may use any amounts it receives in pursuance of notices issued under—

- (a) section 88 of the Environmental Protection Act 1990 (litter);
- (b) section 43(1) of the Anti-social Behaviour Act 2003 (graffiti and fly-posting); and
- (c) section 59 of the Clean Neighbourhoods and Environment Act 2005 (dog control orders),

for the purposes of its functions under those sections and, in relation to dog control orders, for the purposes of its functions under Chapter 1 of Part 6 of the 2005 Act (*regulation 5(1) and (2)*).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 5(3) requires community councils to supply the National Assembly for Wales with such information in relation to their fixed penalty receipts as the National Assembly for Wales may require.