



# London Local Authorities Act 2004

## 2004 CHAPTER i

### PART 4

#### FIXED PENALTIES

#### 15 Fixed penalty offences

- (1) Where on any occasion an authorised officer of a borough council finds a person who he has reason to believe has on that occasion committed, in the area of that council, an offence under—
  - (a) any of the enactments mentioned in columns (1) and (2) of the table set out in Schedule 2 to this Act and described in column (3) of that table; or
  - (b) any byelaws made by the borough council under any enactment,the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Sections 16 (Fixed penalty notices), 17 (Levels of fixed penalties) and 18 (Fixed penalties: reserve powers of Secretary of State) of this Act shall apply in respect of fixed penalty notices under this section.
- (3) The Secretary of State may, by regulations, amend Schedule 2 to this Act by the addition of further offences to the list of offences therein described.
- (4) An authorised officer may not exercise the powers under subsection (1) above, and the said section 16 shall have no effect, until the levels of fixed penalties set by the councils in accordance with the said section 17 have come into force for the first time in accordance with the said section 18.

#### 16 Fixed penalty notices

- (1) The provisions of this section shall have effect in relation to notices (in this section referred to as “fixed penalty notices”) which may be given under section 15 (Fixed penalty offences) of this Act by an authorised officer in respect of an offence.
- (2) Where a person is given a fixed penalty notice in respect of an offence—

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- (a) no proceedings shall be instituted for that offence before the expiration of 14 days following the date of the notice; and
  - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (3) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—
- (a) the period during which, by virtue of subsection (2) above, proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty; and
  - (c) the name of the person to whom and the address at which the fixed penalty may be paid,
- and without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (4) Where a letter is sent in accordance with subsection (3) above, payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (5) The form of notices under this section shall be such as the Secretary of State may by order prescribe.
- (6) The fixed penalty payable in pursuance of a fixed penalty notice under this section shall be paid to the borough council.
- (7) Schedule 3 to this Act shall have effect with respect to financial provisions relating to fixed penalties payable in pursuance of a fixed penalty notice under this section.
- (8) In any proceedings a certificate which—
- (a) purports to be signed by or on behalf of the chief finance officer of the borough council; and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- shall be evidence of the facts stated.
- (9) In this section, “chief finance officer”, in relation to a borough council, means the person having responsibility for the financial affairs of the council.

## 17 Levels of fixed penalties

- (1) It shall be the duty of the borough councils to set the levels of fixed penalties payable to them under section 16 (Fixed penalty notices) of this Act.
- (2) Different levels may be set for different areas in Greater London and for different cases or classes of case.
- (3) In setting the level of fixed penalty under subsection (1) above the councils may take account of—
  - (a) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of the enactment under which the particular fixed penalty offence is created; and
  - (b) the cost or expected cost of enforcing the provisions of the relevant enactment.

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- (4) Levels of fixed penalties set by the councils in accordance with this section may only come into force in accordance with section 18 (Fixed penalties: reserve powers of Secretary of State) of this Act.
- (5) The councils shall publish, in such manner as the Secretary of State may determine, the levels of fixed penalties which have been set by the councils in accordance with this section.
- (6) The functions conferred on councils by subsections (1) and (5) above shall be discharged by the joint committee.
- (7) In this section, and the said section 18, “the joint committee” means any joint committee established under section 101(5) of the Local Government Act 1972 (c. 70) and comprising at least one member from each borough council.

The joint committee is to be formed before the end of the period of six months commencing on the date on which this Act is passed.

## **18 Fixed penalties: reserve powers of Secretary of State**

- (1) Where the borough councils set any levels of fixed penalties under subsection (1) of section 17 (Levels of fixed penalties) of this Act, they shall notify the Secretary of State of the levels of fixed penalties so set.
- (2) Where notification of any levels of fixed penalties is required to be given under subsection (1) above, the levels of fixed penalties shall not come into force until after the expiration of—
  - (a) the period of one month beginning with the day on which the notification is given; or
  - (b) such shorter period as the Secretary of State may allow.
- (3) If, before the expiration of that period, the Secretary of State gives notice to the joint committee that he objects to the levels of fixed penalties on the grounds that some or all of them are or may be excessive, those levels of fixed penalties shall not come into force unless and until the objection has been withdrawn.
- (4) If, at any time before the levels of fixed penalties required to be notified under subsection (1) above to the Secretary of State have come into force, the Secretary of State considers that some or all of them are excessive, he may make regulations setting the levels of fixed penalties.
- (5) Levels of fixed penalties set under subsection (4) above must be no higher than those notified under subsection (1) above.
- (6) Regulations under subsection (4) above are without prejudice to the duty imposed on borough councils by subsection (1) of the said section 17; but where the Secretary of State makes any such regulations the councils must not set any further fixed penalties under the said subsection (1) until after the expiration of the period of 12 months beginning with the day on which the regulations are made.