Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

An Act to amend section 6 of the Crime and Disorder Act 1998; to make provision for the gating of certain minor highways; to make provision in relation to vehicles parked on roads that are exposed for sale or being repaired; to make provision in relation to abandoned vehicles and the removal and disposal of vehicles; to make provision relating to litter and refuse, graffiti, fly-posting and the display of advertisements; to make provision relating to the transportation, collection, disposal and management of waste; to make provision relating to the control of dogs and to amend the law relating to stray dogs; to make provision in relation to noise; to provide for the Commission for Architecture and the Built Environment and for the making of grants relating to the quality of the built environment; to amend the law relating to abandoned shopping and luggage trolleys; to amend the law relating to statutory nuisances; to amend section 78L of the Environmental Protection Act 1990; to amend the law relating to offences under Schedule 1 to the Pollution Prevention and Control Act 1999; and for connected purposes. [7th April 2005]

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:—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 1

CRIME AND DISORDER

PROSPECTIVE

[F1]1 Crime and disorder reduction strategies

. . . . . .

Textual Amendments

F1 S. 1 repealed (1.8.2007 for E.) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 15 Pt. 3**; S.I. 2007/1614, art. 3(e)

2 Gating orders

In the Highways Act 1980 (c. 66), after section 129 insert—

"PART 8A

RESTRICTION OF RIGHTS OVER HIGHWAY

129A Gating orders

(1) A council may in accordance with this Part make an order under this section in relation to any relevant highway for which they are the highway authority.

(2) An order under this section is to be known as a "gating order".

(3) Before making a gating order in relation to a relevant highway the council must be satisfied that—
  (a) premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;
  (b) the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour; and
  (c) it is in all the circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

(4) The circumstances referred to in subsection (3)(c) include—
  (a) the likely effect of making the order on the occupiers of premises adjoining or adjacentto the highway;
  (b) the likely effect of making the order on other persons in the locality; and
  (c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

(5) In this section "relevant highway" means a highway other than—
  (a) a special road;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a trunk road;
(c) a classified or principal road;
(d) a strategic road, within the meaning of sections 60 and 61 of the Traffic Management Act 2004 (strategic roads in London);
(e) a highway of such other description as the appropriate person may by regulations prescribe.

129B Effect of gating orders

(1) A gating order restricts, to the extent specified in the order, the public right of way over the highway to which it relates.

(2) A gating order may in particular—
(a) restrict the public right of way at all times, or in respect of such times, days or periods as may be specified in the order;
(b) exclude persons of a description specified in the order from the effect of the restriction.

(3) A gating order may not be made so as to restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway.

(4) A gating order may not be made so as to restrict the public right of way over a highway which is the only or principal means of access to any dwelling.

(5) In relation to a highway which is the only or principal means of access to any premises used for business or recreational purposes, a gating order may not be made so as to restrict the public right of way over the highway during periods when those premises are normally used for those purposes.

(6) A gating order may authorise the installation, operation and maintenance of a barrier or barriers for the purpose of enforcing the restriction provided for in the order.

(7) A council may install, operate and maintain any barrier authorised under subsection (6).

(8) A highway in relation to which a gating order is made shall not cease to be regarded as a highway by reason of the restriction of the public right of way under the order (or by reason of any barrier authorised under this section).

(9) In subsection (4) “dwelling” means any building or part of a building occupied, or intended to be occupied, as a separate dwelling.

129C Procedure for gating orders

(1) Before making a gating order in relation to a highway a council must notify the occupiers of premises adjacent to or adjoining the highway, in such manner as the appropriate person may by regulations prescribe, of—
(a) the proposed order; and
(b) the period within which they may make representations about it.

(2) The appropriate person must by regulations make provision as to further procedure to be complied with by a council in relation to the making of a gating order.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Regulations under subsection (2) must include provision as to—
- (a) the publication of a proposed order;
- (b) public availability of copies of a proposed order;
- (c) notification of persons (other than those referred to in subsection (1)) likely to be affected by a proposed order;
- (d) the making of representations about a proposed order.

(4) Regulations under subsection (2) may include provision—
- (a) requiring a council to hold a public inquiry in such circumstances as may be specified in the regulations;
- (b) permitting a council to hold a public inquiry at their discretion in such circumstances as may be so specified.

(5) The appropriate person may by regulations specify requirements as to form and content with which a gating order must comply.

129D Validity of gating orders

(1) A person may apply to the High Court for the purpose of questioning the validity of a gating order on the ground that—
- (a) the council had no power to make it; or
- (b) any requirement under this Part was not complied with in relation to it.

(2) An application under this section must be made within a period of six weeks beginning with the date on which the gating order is made.

(3) On an application under this section the High Court may by order suspend the operation of the gating order, or any of its provisions, until the final determination of the proceedings.

(4) If on an application under this section the High Court is satisfied that—
- (a) the council had no power to make the order, or
- (b) the interests of the applicant have been substantially prejudiced by any failure to comply with a requirement under this Part,

the High Court may quash the order or any of its provisions.

(5) A gating order, or any of its provisions, may be suspended under subsection (3) or quashed under subsection (4)—
- (a) generally; or
- (b) so far as may be necessary for the protection of the interests of the applicant.

(6) Except as provided for by this section, a gating order may not, either before or after it has been made, be questioned in any legal proceedings.

129E Publication and availability of gating orders

(1) The appropriate person may by regulations make provision imposing requirements on councils in relation to—
- (a) the publication of gating orders;
- (b) public availability of copies of gating orders;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the keeping and inspection of registers of gating orders.

(2) Regulations under subsection (1)(b) may provide that a council need not provide a person with a copy of a gating order otherwise than on payment of a reasonable charge.

129F Variation and revocation of gating orders

(1) A council may vary a gating order made by them so as further to restrict any public right of way over the highway to which the order relates, if they are satisfied that in all the circumstances it is expedient to do so for the purpose of reducing crime or anti-social behaviour.

(2) A council may vary a gating order made by them so as to reduce the restriction imposed by the order, if and to the extent that they are satisfied that the restriction is no longer expedient in all the circumstances for the purpose of reducing crime or anti-social behaviour.

(3) A council may revoke a gating order made by them, if they are satisfied that the restriction imposed by the order is no longer expedient in all the circumstances for the purpose of reducing crime or anti-social behaviour.

(4) Before varying or revoking a gating order in relation to a highway a council must notify the occupiers of premises adjacent to or adjoining the highway, in such manner as the appropriate person may by regulations prescribe, of—
(a) the proposed variation or revocation; and
(b) the period within which they may make representations about it.

(5) The appropriate person must by regulations make further provision as to the procedure to be followed by a council in relation to the variation or revocation of a gating order.

(6) Regulations under subsection (5) must include provision as to—
(a) publication of any proposed variation or revocation;
(b) notification of persons (other than those referred to in subsection (4)) likely to be affected by a proposed variation or revocation;
(c) the making of representations about a proposed variation or revocation.

(7) Regulations under subsection (5) may include provision—
(a) requiring a council to hold a public inquiry in such circumstances as may be specified in the regulations;
(b) permitting a council to hold a public inquiry at their discretion in such circumstances as may be so specified.

129G Interpretation

For the purposes of this Part—

"anti-social behaviour" means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as himself;

"appropriate person" means—
(a) the Secretary of State, in relation to England;
(b) the National Assembly for Wales, in relation to Wales."

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I1 S. 2 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I2 S. 2 in force at 1.4.2006 for E. by S.I. 2006/795, **art. 2(2)**

PART 2

VEHICLES

Nuisance parking offences

3 Exposing vehicles for sale on a road

(1) A person is guilty of an offence if at any time—

(a) he leaves two or more motor vehicles parked within 500 metres of each other on a road or roads where they are exposed or advertised for sale, or

(b) he causes two or more motor vehicles to be so left.

(2) A person is not to be convicted of an offence under subsection (1) if he proves to the satisfaction of the court that he was not acting for the purposes of a business of selling motor vehicles.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) In this section—

"motor vehicle" has the same meaning as in the Refuse Disposal (Amenity) Act 1978 (c. 3);

"road" has the same meaning as in the Road Traffic Regulation Act 1984 (c. 27).

4 Repairing vehicles on a road

(1) A person who carries out restricted works on a motor vehicle on a road is guilty of an offence, subject as follows.

(2) For the purposes of this section "restricted works" means—

(a) works for the repair, maintenance, servicing, improvement or dismantling of a motor vehicle or of any part of or accessory to a motor vehicle;

(b) works for the installation, replacement or renewal of any such part or accessory.

(3) A person is not to be convicted of an offence under this section in relation to any works if he proves to the satisfaction of the court that the works were not carried out—

(a) in the course of, or for the purposes of, a business of carrying out restricted works; or

(b) for gain or reward.

(4) Subsection (3) does not apply where the carrying out of the works gave reasonable cause for annoyance to persons in the vicinity.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) A person is also not to be convicted of an offence under this section in relation to any works if he proves to the satisfaction of the court that the works carried out were works of repair which—

(a) arose from an accident or breakdown in circumstances where repairs on the spot or elsewhere on the road were necessary; and

(b) were carried out within 72 hours of the accident or breakdown or were within that period authorised to be carried out at a later time by the local authority for the area.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) In this section—

"motor vehicle" has the same meaning as in the Refuse Disposal (Amenity) Act 1978;

"road" has the same meaning as in the Road Traffic Regulation Act 1984;

"local authority" has the meaning given in section 9.

5 Liability of directors etc

(1) Where an offence under section 3 or 4 committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) a person who was purporting to act in any such capacity,

he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body.

Nuisance parking offences: fixed penalty notices

6 Power to give fixed penalty notices

(1) Where on any occasion an authorised officer of a local authority has reason to believe that a person has committed an offence under section 3 or 4 in the area of that authority, 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 to the local authority.

(2) 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 the 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 that period.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) 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.

(4) A notice under this section must also state—
- (a) the period during which, by virtue of subsection (2), 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.

(5) 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 (4)(c) at the address so mentioned.

(6) Where a letter is sent in accordance with subsection (5) 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.

(7) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(8) The fixed penalty payable to a local authority under this section is, subject to subsection (9), £100.

(9) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (8).

(10) The local 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.

(11) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, a local authority may make provision under subsection (10).

(12) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer of the local 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.

(13) In this section "chief finance officer", in relation to a local authority, means the person having responsibility for the financial affairs of the authority.

Commencement Information

I3 S. 6 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I4 S. 6 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I5 S. 6 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

7 Power to require name and address

(1) If an authorised officer of a local authority proposes to give a person a notice under section 6, the officer may require the person to give him his name and address.

(2) A person commits an offence if—
- (a) he fails to give his name and address when required to do so under subsection (1), or
- (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I6 S. 7 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

8 Use of fixed penalty receipts

(1) This section applies in relation to amounts paid to a local authority in pursuance of notices under section 6 (its "fixed penalty receipts").

(2) A local authority may use its fixed penalty receipts only for the purposes of—
- (a) its functions under the Refuse Disposal (Amenity) Act 1978 (c. 3);
- (b) its functions under sections 99 to 102 of the Road Traffic Regulation Act 1984 (c. 27);
- (c) its functions relating to the enforcement of sections 3 and 4;
- (d) such other of its functions as may be specified in regulations made by the appropriate person.

(3) Regulations under subsection (2)(d) may (in particular) have the effect that an authority may use its fixed penalty receipts for the purposes of any of its functions.

(4) A local authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.

(5) The appropriate person may by regulations—
- (a) make provision for what a local 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 (2);
  - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
- (b) make provision for accounting arrangements in respect of a local authority's fixed penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.

(7) Before making regulations under this section, the appropriate person must consult—
- (a) the authorities to which the regulations are to apply;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) such other persons as the appropriate person thinks fit.

(8) 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 (c. 26), to be regarded as included among the powers mentioned in subsection (2) of that section.

Commencement Information

I7 S. 8 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I8 S. 8 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I9 S. 8 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

9 Fixed penalty notices: supplementary

(1) For the purposes of this section, "this group of sections" means sections 6 to 8 and this section.

(2) In this group of sections—

"local authority" means—

(a) a district council in England;

(b) a county council in England for an area for which there is no district council;

(c) a London borough council;

(d) the Common Council of the City of London;

(e) the Council of the Isles of Scilly;

(f) a county or county borough council in Wales;

"appropriate person" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the National Assembly for Wales;

"authorised officer", in relation to a local authority, means an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under section 6.

(3) Any order or regulations under this group of sections must be made by statutory instrument.

(4) Any such order or regulations may make different provision for different purposes (including different provision in relation to different authorities or different descriptions of authority).

(5) A statutory instrument containing an order or regulations made by the Secretary of State under this group of sections is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I10 S. 9 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Abandoned vehicles

10 Offence of abandoning a vehicle: fixed penalty notices

In the Refuse Disposal (Amenity) Act 1978 (c. 3), after section 2 (offence of unauthorised abandonment of vehicles etc) insert—

"**2A Fixed penalty notices for offence of abandoning vehicles**

(1) Where on any occasion it appears to an authorised officer of a local authority that a person has committed an offence under section 2(1)(a) above in the area of that authority, the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the authority.

(2) 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 the 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.

(3) 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.

(4) A notice under this section must also 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 person to whom and the address at which the fixed penalty may be paid.

(5) 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 (4)(c) above at the address so mentioned.

(6) Where a letter is sent in accordance with subsection (5) 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.

(7) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(8) The fixed penalty payable to a local authority under this section is, subject to subsection (9) below, £200.

(9) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (8) above.

(10) The local 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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(11) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, a local authority may make provision under subsection (10) above.

(12) An order or regulations under this section may make different provision for different purposes and in relation to different areas.

(13) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer of the local 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—

"authorised officer", in relation to a local authority, means an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;

"chief finance officer", in relation to a local authority, means the person having responsibility for the financial affairs of the authority.

2B Fixed penalty notices: power to require name and address

(1) If an authorised officer of a local authority proposes to give a person a notice under section 2A above, the officer may require the person to give him his name and address.

(2) A person commits an offence if—
- (a) he fails to give his name and address when required to do so under subsection (1) above, or
- (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) In this section "authorised officer" has the same meaning as in section 2A above.

2C Use of fixed penalties under section 2A

(1) This section applies in relation to amounts paid to a local authority in pursuance of notices under section 2A above (its "fixed penalty receipts").

(2) A local authority may use its fixed penalty receipts only for the purposes of—
- (a) its functions under this Act;
- (b) its functions under sections 99 to 102 of the Road Traffic Regulation Act 1984;
- (c) its functions relating to the enforcement of sections 3 and 4 of the Clean Neighbourhoods and Environment Act 2005; and
- (d) such other of its functions as may be specified in regulations made by the appropriate person.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Regulations under subsection (2)(d) above may in particular have the effect that a local authority may use its fixed penalty receipts for the purposes of any of its functions.

(4) A local authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.

(5) The appropriate person may by regulations—

(a) make provision for what a local 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 (2) above;

(ii) if they are not so used before such time after their receipt as may be specified by the regulations;

(b) make provision for accounting arrangements in respect of a local authority's fixed penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.

(7) 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.

(8) 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.”

Commencement Information

I11 S. 10 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I12 S. 10 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

11 Notice of removal

(1) Section 3 of the Refuse Disposal (Amenity) Act 1978 (c. 3) (removal of abandoned vehicles) is amended as follows.

(2) After subsection (2) (requirement to give notice to occupier) insert—

“(2A) Subsection (2) does not apply where the vehicle is abandoned on a road (within the meaning of the Road Traffic Regulation Act 1984).”

(3) Omit subsection (5) (requirement to give notice of removal of vehicle which ought to be destroyed).

Commencement Information

I13 S. 11 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(a)** (with art. 4(1))

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

I14 S. 11 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(a)** (with art. 8(1)(a)(2))

12 Disposal

(1) Section 4(1) of the Refuse Disposal (Amenity) Act 1978 (disposal of abandoned vehicles) is amended as follows.

(2) For paragraphs (a) and (b) substitute—

"(a) in the case of a vehicle which in the opinion of the authority is in such a condition that it ought to be destroyed, at any time after its removal;

(b) in the case of a vehicle, not falling within paragraph (a), which—

(i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and

(ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom),

at any time after its removal;".

(3) Omit the words from "but not earlier" to the end.

(4) In section 11(1) of that Act (interpretation), in the definition of "licence", at the end insert " (including a nil licence within the meaning of that Act) ".

Commencement Information

I15 S. 12 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(b)** (with art. 4(1))

I16 S. 12 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(b)** (with art. 8(1)(b)(2))

13 Guidance

In the Refuse Disposal (Amenity) Act 1978 (c. 3), after section 4 insert—

"**4A Guidance**

Any authority on whom functions are conferred under section 3 or 4 above must, in exercising those functions, have regard to any guidance given to the authority for the purpose by the appropriate person."

Commencement Information

I17 S. 13 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(c)** (with art. 4(1))

I18 S. 13 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I19 S. 13 in force at 27.10.2006 for W. in so far as not already in force by S.I. 2006/2797, **art. 2(c)** (with art. 8(1)(c)(2))

14 Abandoned vehicles: supplementary

(1) The Refuse Disposal (Amenity) Act 1978 is amended as follows.

(2) In section 10(5), after "except" insert—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(za) an order or regulations under section 2A above, or regulations under section 2C above, made by the National Assembly for Wales; or".

(3) In section 11(1), after "that is to say—" insert—

""appropriate person" means—
(a) in relation to a local authority in England, the Secretary of State;
(b) in relation to a local authority in Wales, the National Assembly for Wales;".

Illegally parked vehicles etc

15 Notice of removal

(1) Section 99 of the Road Traffic Regulation Act 1984 (c. 27) (removal of vehicles) is amended as follows.

(2) In subsection (3) (requirement to give notice of removal to occupier), after "land" insert " other than a road ".

(3) Omit subsection (4) (requirement to give notice of removal of vehicle which ought to be destroyed).

Commencement Information
I20 S. 15 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(d)** (with art. 5(1))
I21 S. 15 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(d)** (with art. 9(1)(a)(2))

16 Disposal

(1) Section 101 of the Road Traffic Regulation Act 1984 (c. 27) (ultimate disposal of removed vehicles) is amended as follows.

(2) In subsection (3), in paragraph (a), omit the words from "and on which" to "at the time of its removal".

(3) In that subsection, for paragraph (b) substitute—

"(b) in the case of a vehicle, not falling within paragraph (a), which—
(i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and
(ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom),
at any time after its removal;".

(4) In that subsection, omit the words from "but, in a case" to the end.

(5) In subsection (8), in the definition of "licence", at the end insert " (including a nil licence within the meaning of that Act) ".

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I22 S. 16 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(e)** (with art. 5(1))

I23 S. 16 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(e)** (with art. 9(1)(b)(2))

17 Guidance

In section 103 of the Road Traffic Regulation Act 1984 (supplementary provision as to removal of vehicles), at the end insert—

"(4) A local authority must in exercising any of their functions under sections 99 to 102 have regard to any guidance given to the authority for the purpose by—

(a) the Secretary of State, in the case of a local authority in England;

(b) the National Assembly for Wales, in the case of a local authority in Wales.

(5) In subsection (4) "local authority" has the meaning given by section 100(5)(a) and (b)."

Commencement Information

I24 S. 17 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(f)** (with art. 5(1))

I25 S. 17 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I26 S. 17 in force at 27.10.2006 for W. in so far as not already in force by S.I. 2006/2797, **art. 2(f)** (with art. 9(1)(c)(2))

PART 3

LITTER AND REFUSE

Offence of dropping litter

18 Extension of litter offence to all open places

In section 87 of the Environmental Protection Act 1990 (c. 43) (offence of leaving litter), for subsections (1) to (4) substitute—

"(1) A person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it.

(2) This section applies to any place in the area of a principal litter authority which is open to the air, subject to subsection (3) below.

(3) This section does not apply to a place which is "open to the air" for the purposes of this Part by virtue of section 86(13) above if the public does not have access to it, with or without payment.

(4) It is immaterial for the purposes of this section whether the litter is deposited on land or in water.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4A) No offence is committed under subsection (1) above where the depositing of the litter is—

(a) authorised by law; or

(b) done by or with the consent of the owner, occupier or other person having control of the place where it is deposited.

(4B) A person may only give consent under subsection (4A)(b) above in relation to the depositing of litter in a lake or pond or watercourse if he is the owner, occupier or other person having control of—

(a) all the land adjoining that lake or pond or watercourse; and

(b) all the land through or into which water in that lake or pond or watercourse directly or indirectly discharges, otherwise than by means of a public sewer.

(4C) In subsection (4B) above, "lake or pond", "watercourse" and "public sewer" have the same meanings as in section 104 of the Water Resources Act 1991."

19 Litter offence: fixed penalty notices

(1) Section 88 of the Environmental Protection Act 1990 (c. 43) (fixed penalty notices for leaving litter) is amended as follows.

(2) For subsections (6) and (7) (amount of fixed penalty) substitute—

"(6) The fixed penalty payable in pursuance of a notice under this section is payable to the litter authority whose authorised officer gave the notice.

(6A) The amount of a fixed penalty payable in pursuance of a notice under this section—

(a) is the amount specified by a principal litter authority in relation to its area (whether the penalty is payable to that or another authority), or

(b) if no amount is so specified, is £75.

(6B) The reference in subsection (6A) above to a principal litter authority does not include an English county council for an area for which there is also a district council.

(7) The litter 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."

(3) After subsection (8) insert—

"(8A) If an authorised officer of a litter authority proposes to give a person a notice under this section, the officer may require the person to give him his name and address.

(8B) A person commits an offence if—

(a) he fails to give his name and address when required to do so under subsection (8A) above, or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8C) A person guilty of an offence under subsection (8B) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale."

(4) In subsection (9), at the end insert—

"(f) a parish or community council."

(5) In subsection (10), for the definition of "authorised officer" substitute—

""authorised officer", in relation to a litter authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;".

(6) After that subsection insert—

"(11) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under this section."

Commencement Information

I27 S. 19 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I28 S. 19(1) in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1** (with art. 4)

I29 S. 19(1)-(5) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I30 S. 19(6) in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1** (with art. 4)

Local authority notices

20 Litter clearing notices

(1) Section 90 of the Environmental Protection Act 1990 (c. 43) (litter control areas) shall cease to have effect.

(2) After section 92 of that Act insert—

"**92A Litter clearing notices**

(1) A principal litter authority may in accordance with this section serve a notice (a "litter clearing notice") in relation to any land in its area which is open to the air.

(2) Before serving a litter clearing notice in relation to any land a principal litter authority must be satisfied that the land is defaced by litter or refuse so as to be detrimental to the amenity of the locality.

(3) A litter clearing notice is to require the person on whom it is served—

(a) to clear the land of the litter or refuse; and

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) if the principal litter authority is satisfied that the land is likely to become defaced by litter or refuse again, to take reasonable steps to prevent it from becoming so defaced.

(4) A litter clearing notice must be served on—
(a) the occupier of the land to which it relates; or
(b) if the land is not occupied, the owner.

(5) A litter clearing notice imposing a requirement under subsection (3)(a) above may specify—
(a) a period within which the requirement must be complied with;
(b) standards of compliance.

(6) A period specified under subsection (5)(a) above may not be less than 28 days beginning with the day on which the notice is served.

(7) A principal litter authority must, in discharging its functions under this section, have regard to any guidance given to the authority by the appropriate person.

(8) The form and content of a litter clearing notice is to be such as the appropriate person may by order specify.

(9) Where a principal litter authority proposes to serve a litter clearing notice in respect of any land but is unable after reasonable enquiry to ascertain the name or proper address of the occupier of the land (or, if the land is unoccupied, the owner)—
(a) the authority may post the notice on the land (and may enter any land to the extent reasonably necessary for that purpose), and
(b) the notice is to be treated as having been served upon the occupier (or, if the land is unoccupied, the owner) at the time the notice is posted.

(10) Subsection (1) above does not apply to an English county council for an area for which there is a district council.

(11) A litter clearing notice may not be served in relation to land of any of the following descriptions—
(a) a highway maintainable at the public expense;
(b) land under the direct control of a principal litter authority;
(c) Crown land;
(d) relevant land of a designated statutory undertaker;
(e) relevant land of a designated educational institution;
(f) land which is covered (but "open to the air" for the purposes of this Part by virtue of section 86(13) above) and to which the public are not entitled or permitted to have access, with or without payment.

92B Appeals against litter clearing notices

(1) A person on whom a litter clearing notice is served under section 92A above may appeal against it to a magistrates' court in accordance with the provisions of this section.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) An appeal under this section must be made within a period of 21 days beginning with the day on which the notice is served.

(3) The grounds on which an appeal under this section may be made are that—
- (a) there is a material defect or error in, or in connection with, the notice;
- (b) the notice should have been served on another person;
- (c) the land is not defaced by litter or refuse so as to be detrimental to the amenity of the locality;
- (d) the action required is unfair or unduly onerous.

(4) A notice against which an appeal under this section is made is of no effect pending the final determination or withdrawal of the appeal.

(5) On the determination of an appeal under this section, the magistrates' court must—
- (a) quash the notice;
- (b) modify the notice (including modifying it by extending the period specified in it); or
- (c) dismiss the appeal.

92C Failure to comply with litter clearing notice

(1) This section applies where the person on whom a litter clearing notice is served under section 92A above fails without reasonable excuse to comply with any requirement imposed by the notice.

(2) The person is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) The principal litter authority which served the notice or any person authorised by the authority may enter the land to which the notice relates and clear it of litter and refuse.

(4) Where a principal litter authority exercises the power in subsection (3) above, it may require the person on whom the notice was served to pay a reasonable charge in respect of the exercise of the power.

(5) A principal litter authority may for the purposes of subsection (4) above impose charges by reference to land of particular descriptions or categories (including categories determined by reference to surface area).”

Commencement Information

I31 S. 20 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I32 S. 20 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

21 Street litter control notices

(1) In section 93 of the Environmental Protection Act 1990 (c. 43) (street litter control notices), after subsection (3) insert—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(3A) A vehicle or stall or other moveable structure which is used for one or more commercial or retail activities while parked or set at a particular place on or verging a street is to be treated for the purposes of this section and section 94 below as if it were premises situated at that place having a frontage on that street in the place where it is parked or set.

(3B) In subsection (3A) above, "vehicle" means any vehicle intended or adapted for use on roads."

(2) In section 94 of that Act (supplementary provisions in relation to street litter control notices), in subsection (4)(b) after "so specified" insert " (including the standards to which any such thing must be done) ".

(3) In that section, for subsections (8) and (9) substitute—

"(8) A person commits an offence if, without reasonable excuse, he fails to comply with a requirement imposed on him by a notice.

(9) A person guilty of an offence under subsection (8) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale."

Commencement Information

I33 S. 21 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

22 Failure to comply with notice: fixed penalty notices

After section 94 of the Environmental Protection Act 1990 (c. 43) insert—

"**94A Fixed penalty notices relating to sections 92C and 94**

(1) This section applies where on any occasion it appears to an authorised officer of a principal litter authority that a person has committed an offence under section 92C(2) or 94(8) above in relation to a notice served by that authority.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the principal litter authority.

(3) Subsections (2) to (5) of section 88 above (fixed penalty notices for leaving litter) apply in relation to notices given under this section as they apply in relation to notices given under that section.

(4) The amount of a fixed penalty payable to a principal litter authority under this section is—

(a) the amount specified by the authority in relation to its area (and an authority may specify different amounts for the two different offences referred to in subsection (1) above); or

(b) if no amount is so specified, £100.

(5) The principal litter 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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of a principal litter authority; and

(b) states that payment of a fixed penalty was or was not received by the date specified in the certificate,

is evidence of the facts stated.

(7) In this section—

"authorised officer", in relation to a principal litter authority, means an officer of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;

"chief finance officer", in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority."

Commencement Information

I34 S. 22 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Free distribution of printed matter

23 Controls on free distribution of printed matter

(1) In the Environmental Protection Act 1990 (c. 43), after section 94A (as inserted by section 22 above) insert—

"**94B Free distribution of printed matter**

Schedule 3A (distribution of printed matter on designated land) has effect."

(2) In that Act, after Schedule 3 insert—

"SCHEDULE 3A

FREE DISTRIBUTION OF PRINTED MATTER ON DESIGNATED LAND

Offence of unauthorised distribution

1 (1) A person commits an offence if he distributes any free printed matter without the consent of a principal litter authority on any land which is designated by the authority under this Schedule, where the person knows that the land is so designated.

(2) A person commits an offence if he causes another person to distribute any free printed matter without the consent of a principal litter authority on any land designated by the authority under this Schedule.

(3) A person is not guilty of an offence under sub-paragraph (2) if he took reasonable steps to ensure that the distribution did not occur on any land designated under this Schedule.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Nothing in this paragraph applies to the distribution of printed matter—
- (a) by or on behalf of a charity within the meaning of the Charities Act 1993, where the printed matter relates to or is intended for the benefit of the charity;
- (b) where the distribution is for political purposes or for the purposes of a religion or belief.

(5) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) For the purposes of this Schedule—
- (a) to "distribute" printed matter means to give it out to, or offer or make it available to, members of the public and includes placing it on or affixing it to vehicles, but does not include putting it inside a building or letter-box;
- (b) printed matter is "free" if it is distributed without charge to the persons to whom it is distributed.

(7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981).

Designation

2 (1) A principal litter authority may by order in accordance with this paragraph designate land in its area for the purposes of this Schedule.

(2) The land designated must consist of—
- (a) relevant land of the authority;
- (b) all or part of any relevant highway for which the authority is responsible; or
- (c) both.

(3) A principal litter authority may only designate land where it is satisfied that the land is being defaced by the discarding of free printed matter which has been distributed there.

(4) Where a principal litter authority proposes to make an order under sub-paragraph (1) above in respect of any land, it must—
- (a) publish a notice of its proposal in at least one newspaper circulating in an area which includes the land; and
- (b) post such a notice on the land.

(5) A notice under sub-paragraph (4) above must specify—
- (a) the land proposed to be designated;
- (b) the date on which it is proposed that the order is to come into force (which may not be earlier than the end of a period of 28 days beginning with the day on which the notice is given);
- (c) the fact that objections may be made to the proposal, how they may be made and the period within which they may be made (being a period of at least 14 days beginning with the day on which the notice is given).

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Where after giving notice under sub-paragraph (4) above and taking into account any objections duly made pursuant to sub-paragraph (5)(c) above an authority decides to make an order under sub-paragraph (1) above in respect of any or all of the land in respect of which the notice was given, the authority must—
  (a) publish a notice of its decision in at least one newspaper circulating in an area which includes the land; and
  (b) post such a notice on the land.

(7) A notice under sub-paragraph (6) above must specify the date on which the order is to come into force, being a date not earlier than—
  (a) the end of the period of 14 days beginning with the day on which the notice is given; and
  (b) the date referred to in sub-paragraph (5)(b) above.

(8) A principal litter authority may at any time revoke an order under sub-paragraph (1) above in respect of any land to which the order relates.

(9) A principal litter authority must—
  (a) publish a notice of any revocation under sub-paragraph (8) above in at least one newspaper circulating in an area which includes the land in question; and
  (b) post such a notice on the land.

(10) Sub-paragraph (1) above does not apply to an English county council for an area for which there is a district council.

Consent and conditions

3 (1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.

(2) Consent under this paragraph may be given without limitation or may be limited—
  (a) by reference to the material to be distributed;
  (b) by reference to a particular period, or particular times or dates;
  (c) by reference to any part of the designated land;
  (d) to a particular distribution.

(3) A principal litter authority need not give consent under this paragraph to any applicant where it considers that the proposed distribution would in all the circumstances be likely to lead to defacement of the designated land.

(4) Consent need not be given to any applicant if within the period of five years ending on the date of his application—
  (a) he has been convicted of an offence under paragraph 1 above; or
  (b) he has paid a fixed penalty under paragraph 7 below.

(5) Consent may be given under this paragraph subject to such conditions as the authority consider necessary or desirable for—
  (a) protecting the designated land from defacement; or

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the effective operation and enforcement of this Schedule.

(6) The conditions which may be imposed by a principal litter authority under this paragraph include conditions requiring any person distributing printed matter pursuant to consent given under this paragraph to produce on demand written evidence of the consent to an authorised officer of the authority.

(7) Consent given by a principal litter authority under this paragraph may at any time be revoked (entirely or to any extent) by notice to the person to whom it was given, where—

(a) he has failed to comply with any condition subject to which it was given; or

(b) he is convicted of an offence under paragraph 1 above or pays a fixed penalty under paragraph 7 below.

(8) Any condition imposed under this paragraph in relation to any consent may be varied or revoked by notice given to the person to whom the consent was given.

Fees

4 (1) A principal litter authority may require the payment of a fee before giving consent under paragraph 3 above.

(2) The amount of a fee under this paragraph is to be such as the authority may determine, but may not be more than, when taken together with all other fees charged by the authority under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.

Appeals

5 (1) Any person aggrieved by a decision of a principal litter authority under paragraph 3 above—

(a) to refuse consent,

(b) to impose any limitation or condition subject to which consent is given,

(c) to revoke consent (or to revoke it to any extent),

may appeal against the decision to a magistrates' court.

(2) A magistrates' court may on an appeal under this paragraph—

(a) uphold any refusal of consent or require the authority to grant consent (without limitation or condition or subject to any limitation or condition);

(b) require the authority to revoke or vary any condition;

(c) uphold or quash revocation of consent (or uphold or quash revocation to any extent).

Seizure of material

6 (1) Where it appears to an authorised officer of a principal litter authority that a person distributing any printed matter is committing an offence under paragraph 1 above, he may seize all or any of it.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Any person claiming to own any printed matter seized under this paragraph may apply to a magistrates' court for an order that the printed matter be released to him.

(3) On an application under sub-paragraph (2) above, if the magistrates' court considers that the applicant does own the printed matter, the court shall order the principal litter authority to release it to him, except to the extent that the court considers that the authority needs to retain it for the purposes of proceedings relating to an offence under paragraph 1 above.

(4) Any printed matter seized under this paragraph (and not released under sub-paragraph (3) above) must be returned to the person from whom it is seized—
  (a) at the conclusion of proceedings for the offence (unless the court orders otherwise);
  (b) at the end of the period in which proceedings for the offence may be instituted, if no such proceedings have been instituted in that period (or have been instituted but discontinued).

(5) Where it is not possible to return any printed matter under sub-paragraph (4) above because the name and address of the person from whom it was seized are not known, a principal litter authority may dispose of or destroy it.

Fixed penalty notices

7 (1) This paragraph applies where on any occasion it appears to an authorised officer of a principal litter authority that a person has committed an offence under paragraph 1 above on any land designated by the authority under this Schedule.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the principal litter authority.

(3) Subsections (2) to (5) of section 88 above apply in relation to notices given under this paragraph as they apply to notices under that section.

(4) The amount of the fixed penalty payable to a principal litter authority under this paragraph—
  (a) is the amount specified by the authority in relation to its area; or
  (b) if no amount is so specified, is £75.

(5) The principal litter authority to which a fixed penalty is payable under this paragraph 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.

(6) In any proceedings a certificate which—
  (a) purports to be signed on behalf of the chief finance officer of a principal litter 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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) If an authorised officer of a principal litter authority proposes to give a person a notice under this paragraph, the officer may require the person to give him his name and address.

(8) A person commits an offence if—
- (a) he fails to give his name and address when required to do so under sub-paragraph (7) above; or
- (b) he gives a false or inaccurate name or address in response to a requirement under that sub-paragraph.

(9) A person guilty of an offence under sub-paragraph (8) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this paragraph, "chief finance officer", in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority.

Supplementary

8 In this Schedule "authorised officer", in relation to a principal litter authority, means—
- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under paragraph 7 above;
- (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices."

Commencement Information
I35 S. 23 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

General

24 Fixed penalty notices: common provision

After section 97 of the Environmental Protection Act 1990 (c. 43) insert—

"97A Fixed penalty notices: supplementary

(1) The appropriate person may by regulations make provision in connection with the powers conferred under—
- (a) section 88(6A)(a) and (7) above;
- (b) section 94A(4)(a) and (5) above;
- (c) paragraph 7(4)(a) and (5) of Schedule 3A.

(2) Regulations under subsection (1) may (in particular)—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) require an amount specified under section 88(6A)(a), 94A(4)(a) or paragraph 7(4)(a) of Schedule 3A to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, an authority can make provision under section 88(7), 94A(5) or paragraph 7(5) of Schedule 3A.

(3) The appropriate person may by order substitute a different amount for the amount for the time being specified in section 88(6A)(b), 94A(4)(b) or paragraph 7(4)(b) of Schedule 3A.

(4) Regulations or an order under this section may make different provision for different purposes."

Commencement Information

I36 S. 24 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I37 S. 24 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

25 Exclusion of liability

In the Environmental Protection Act 1990 (c. 43), after section 97A (as inserted by section 24 above) insert—

"**97B Exclusion of liability**

(1) None of the persons mentioned in subsection (2) below is to have any liability to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of the power in section 92(9), 92A(9) or 92C(3) above.

(2) Those persons are—

(a) the principal litter authority and any employee of the authority; and

(b) in the case of the power in section 92C(3) above, any person authorised by the authority under that provision and the employer or any employee of that person.

(3) Subsection (1) above does not apply—

(a) if the act or omission is shown to be in bad faith;

(b) to liability arising out of a failure to exercise due care and attention;

(c) so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.

(4) This section does not affect any other exemption from liability (whether at common law or otherwise)."

Commencement Information

I38 S. 25 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

26 "Appropriate person"

In section 98 of the Environmental Protection Act 1990 (definitions), after subsection (1) insert—

"(1A) "Appropriate person" means—
(a) in relation to England, the Secretary of State;
(b) in relation to Wales, the National Assembly for Wales."

27 "Litter"

In section 98 of the Environmental Protection Act 1990 (definitions), after subsection (5) insert—

"(5A) "Litter" includes—
(a) the discarded ends of cigarettes, cigars and like products, and
(b) discarded chewing-gum and the discarded remains of other products designed for chewing."

PART 4

GRAFFITI AND OTHER DEFACEMENT

Graffiti and fly-posting

28 Fixed penalty notices: amount of fixed penalty

(1) In section 43 of the Anti-social Behaviour Act 2003 (c. 38) (penalty notices for graffiti and fly-posting) omit subsections (10) and (11).

(2) After that section insert—

"**43A Amount of penalty**

(1) The amount of a penalty payable in pursuance of a notice under section 43(1)—
(a) is the amount specified by a relevant local authority in relation to its area (whether or not the penalty is payable to that or another authority), or
(b) if no amount is so specified, is £75.

(2) In subsection (1)(a), "relevant local authority" means—
(a) a district council in England;
(b) a county council in England for an area for which there is no district council;
(c) a London borough council;
(d) the Common Council of the City of London;
(e) the Council of the Isles of Scilly;
(f) a county or county borough council in Wales.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The local authority to which a penalty is payable in pursuance of a notice under section 43(1) 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.

(4) The appropriate person may by regulations make provision in connection with the powers conferred under subsections (1)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—

(a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a local authority can make provision under subsection (3).

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).”

Commencement Information

I39 S. 28 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I40 S. 28 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

29 Fixed penalty notices: power to require name and address

After section 43A of the Anti-social Behaviour Act 2003 (c. 38) (as inserted by section 28 above) insert—

“**43B Penalty notices: power to require name and address**

(1) If an authorised officer of a local authority proposes to give a person a notice under section 43(1), the officer may require the person to give him his name and address.

(2) A person commits an offence if—

(a) he fails to give his name and address when required to do so under subsection (1), or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

Commencement Information

I41 S. 29 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

30 Fixed penalty notices: authorised officers

(1) In section 47 of the Anti-social Behaviour Act 2003 (c. 38) (interpretation etc), in subsection (1), for the definition of “authorised officer” substitute—

““authorised officer”, in relation to a local authority, means—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under section 43(1);

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices,".

(2) In that section, at the end insert—

"(4) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under section 43(1)."

Commencement Information

I42 S. 30 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I43 S. 30(1) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I44 S. 30(2) in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

31 Extension of graffiti removal notices to fly-posting

(1) Section 48 of the Anti-social Behaviour Act 2003 (c. 38) (graffiti removal notices) is amended as follows.

(2) In subsection (1)(a) (section to apply where a relevant surface has been defaced by graffiti), after "graffiti" insert " or any poster or flyer the display of which contravenes regulations under section 220 of the Town and Country Planning Act 1990 ".

Commencement Information

I45 S. 31 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

32 Sale of aerosol paint to children

In the Anti-social Behaviour Act 2003 (c. 38), after section 54 (sale of aerosol paint to children) insert—

"**54A Enforcement of section 54**

(1) It is the duty of every local weights and measures authority—

(a) to consider, at least once in every period of twelve months, the extent to which it is appropriate for the authority to carry out in their area a programme of enforcement action in relation to section 54; and

(b) to the extent that they consider it appropriate to do so, carry out such a programme.

(2) For the purposes of subsection (1), a programme of enforcement action in relation to section 54 is a programme involving all or any of the following—

(a) the bringing of prosecutions in respect of offences under that section;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the investigation of complaints in respect of alleged offences under that section;

(c) the taking of other measures intended to reduce the incidence of offences under that section."

Commencement Information

I46 S. 32 in force at 1.7.2005 by S.I. 2005/1675, **art. 2**

Advertisements

33 Unlawful display of advertisements: defences

(1) Section 224 of the Town and Country Planning Act 1990 (c. 8) (enforcement of control as to advertisements) is amended as follows.

(2) In subsection (5) (person not guilty of offence of displaying advertisement in contravention of regulations if he proves it was displayed without his knowledge or consent), for "that it was displayed without his knowledge or consent" substitute " either of the matters specified in subsection (6) ".

(3) After that subsection insert—

"(6) The matters are that—

(a) the advertisement was displayed without his knowledge; or

(b) he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal."

(4) This section does not have effect in relation to an offence committed, or alleged to have been committed, before the commencement of this section.

34 Removal of placards and posters

(1) Section 225 of the Town and Country Planning Act 1990 (power to remove or obliterate placards and posters) is amended as follows.

(2) In subsection (3)(b) after "notice" insert " and recover from him the costs they may reasonably incur in doing so ".

(3) After subsection (5) insert—

"(6) Where—

(a) a local planning authority serve a notice on a person under subsection (3) in relation to a placard or poster, and

(b) the person fails to remove or obliterate it within the period specified in the notice,

the authority may recover from that person the costs they may reasonably incur in exercising their power under subsection (1)."

(4) After subsection (6) (as inserted by subsection (3) above) insert—

"(7) This subsection applies in relation to a placard or poster where—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the placard or poster does not identify the person who displayed it or caused it to be displayed, or

(b) it does do so, but subsection (3) does not apply by reason of subsection (4), and

the placard or poster publicises the goods, services or concerns of an identifiable person.

(8) Where subsection (7) applies, subsections (3) to (6) have effect as if the reference in subsection (3) to the person who displayed the placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised."

(5) After subsection (8) (as inserted by subsection (4) above) insert—

"(9) Where any damage is caused to land or chattels in the exercise of the power under subsection (1) in relation to a placard or poster, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power.

(10) Subsection (9) does not permit the recovery of compensation by the person who displayed the placard or poster or caused it to be displayed.

(11) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4."

(6) In section 324 of that Act (rights of entry), omit subsection (3)(a).

Commencement Information

I47 S. 34 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I48 S. 34 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(g)**

PART 5

WASTE

CHAPTER 1

TRANSPORT OF WASTE

35 Unregistered transport: defence of acting under employer's instructions

(1) In section 1 of the Control of Pollution (Amendment) Act 1989 (c. 14) (offence of transporting controlled waste without registering), in subsection (4)—

(a) at the end of paragraph (a), insert " or ";

(b) omit paragraph (c) (defence of acting under employer's instructions) and the preceding "or".

(2) This section does not have effect in relation to an offence committed, or alleged to have been committed, before the commencement of this section.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

36 Registration requirements and conditions

(1) Section 2 of the Control of Pollution (Amendment) Act 1989 (c. 14) (power to make regulations about registration of carriers) is amended as follows.

(2) In subsection (2)—
- (a) in paragraph (c), omit "free of charge";
- (b) omit paragraph (d);
- (c) in paragraph (e), omit "free of charge".

(3) In subsection (3), omit paragraph (b) (provision as to form of applications).

(4) In subsection (3A)—
- (a) for "paragraphs (b) and (d)" substitute " paragraph (d) "; and
- (b) omit paragraph (a) (further provision as to form of application).

(5) After subsection (4) insert—

"(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.

(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."

(6) In subsection (5), for "to (4)" substitute " to (4B) ".

(7) In section 3 of that Act (restrictions on power under section 2), in subsection (2), after "except" insert " in accordance with regulations under subsection (4A) of that section or ".

37 Enforcement powers

For section 5 of the Control of Pollution (Amendment) Act 1989 substitute—

"**5 Power to require production of authority, stop and search etc**

(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;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 an authorised officer of a regulation authority, are seized on behalf of that authority;

(c) by a constable without such an officer present, 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

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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.

5A Seizure of vehicles etc: supplementary

(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;

(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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The appropriate person may issue guidance to regulation authorities in relation to the performance of their functions under regulations under subsection (2) above."

Commencement Information

I49 S. 37 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I50 S. 37 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I51 S. 37 in force at 27.10.2006 for specified purposes for W. by S.I. 2006/2797, **art. 2(h)**

38 Failure to produce authority: fixed penalty notices

(1) In the Control of Pollution (Amendment) Act 1989 (c. 14), after section 5A (as inserted by section 37 above) insert—

"**5B Fixed penalty notices for offences under section 5**

(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—

(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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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.

5C Use of fixed penalties under section 5B

(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—
- (a) where received by the Environment Agency, must be paid to the Secretary of State;
- (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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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."

Commencement Information

I52 S. 38 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I53 S. 38 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

39 Interpretation

(1) Section 9 of the Control of Pollution (Amendment) Act 1989 (c. 14) (interpretation) is amended as follows.

(2) In subsection (1), at the appropriate place insert—

""appropriate person" means—

(a) the Secretary of State, in relation to England;

(b) the National Assembly for Wales, in relation to Wales."

(3) After subsection (1A) insert—

"(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."

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER 2

DEPOSIT AND DISPOSAL OF WASTE

Offence of unlawful deposit of waste etc

40 Defence of acting under employer's instructions

(1) In section 33 of the Environmental Protection Act 1990 (c. 43) (offence of unauthorised or harmful deposit etc of controlled waste), omit subsection (7)(b) (defence of acting on employer's instructions).

(2) This section does not have effect in relation to an offence committed, or alleged to have been committed, before the commencement of this section.

41 Penalties on conviction

(1) In section 33 of the Environmental Protection Act 1990 (offence of unauthorised or harmful deposit etc of waste), for subsections (8) and (9) (penalties) substitute—

"(8) A person who commits an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £50,000 or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both."

(2) Subsection (1) does not have effect in relation to offences committed before the commencement of this section.

(3) In relation to offences committed after the commencement of this section but before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the amendment made by this section has effect as if for "12 months" there were substituted " 6 months ".

42 Investigation and enforcement costs

(1) After section 33 of the Environmental Protection Act 1990 (c. 43) insert—

"**33A Section 33 offences: investigation and enforcement costs**

(1) This section applies where a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section.

(2) The court by or before which the offender is convicted may make an order requiring him to pay to an enforcement authority a sum which appears to the court not to exceed the costs arising from—

(a) investigations of the enforcement authority which resulted in the conviction; and

(b) the seizure by the enforcement authority under section 34B below of a vehicle involved in the offence.

(3) The costs arising from the seizure of a vehicle as specified in subsection (2)(b) above may include the cost of disposing of the contents of the vehicle.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The power of a court to make an order under this section is in addition to its power to make an order under section 18 of the Prosecution of Offences Act 1985 (award of costs against accused).

(5) In this section "enforcement authority" means the Environment Agency or a waste collection authority."

(2) This section does not have effect in relation to an offence under section 33 of that Act committed before the commencement of this section.

Commencement Information
I54 S. 42 in force at 18.10.2005 by S.I. 2005/2896, **art. 2(a)**

43 Clean-up costs

(1) After section 33A of the Environmental Protection Act 1990 (as inserted by section 42 above) insert—

"**33B Section 33 offences: clean-up costs**

(1) This section applies where a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste.

(2) The reference in section 130(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000 (compensation orders) to loss or damage resulting from the offence includes costs incurred or to be incurred by a relevant person in—
   (a) removing the waste deposited or disposed of in or on the land;
   (b) taking other steps to eliminate or reduce the consequences of the deposit or disposal; or
   (c) both.

(3) In subsection (2) above "relevant person" means—
   (a) the Environment Agency;
   (b) a waste collection authority;
   (c) the occupier of the land;
   (d) the owner of the land (within the meaning of section 78A(9) below).

(4) The reference in subsection (2) above to costs incurred does not, in the case of the Environment Agency or a waste collection authority, include any costs which the Agency or authority has already recovered under section 59(8) below.

(5) In relation to the costs referred to in subsection (2) above, the reference in section 131(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on amount payable) to £5000 is instead to be construed as a reference to the amount of those costs (or, if the costs have not yet been incurred, the likely amount)."

(2) In section 59 of that Act (power to require removal of waste unlawfully deposited), after subsection (8) insert—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(8A) An authority may not recover costs under subsection (8) above if a compensation order has been made under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 in favour of the authority in respect of any part of those costs.

(8B) Subsection (8A) does not apply if the order is set aside on appeal."

(3) This section does not have effect in relation to an offence under section 33 of that Act committed before the commencement of this section.

Commencement Information

I55 S. 43 in force at 18.10.2005 by S.I. 2005/2896, **art. 2(b)**

44 Forfeiture of vehicles

(1) In the Environmental Protection Act 1990 (c. 43), after section 33B (as inserted by section 43 above) insert—

"**33C Section 33 offences: forfeiture of vehicles**

(1) This section applies where a person is convicted of an offence under section 33 above in respect of a contravention of subsection (1) of that section consisting of the deposit or disposal of controlled waste.

(2) The court by or before which the offender is convicted may make an order under this section if—

(a) the court is satisfied that a vehicle was used in or for the purposes of the commission of the offence; and

(b) at the time of his conviction the offender has rights in the vehicle.

(3) An order under this section operates to deprive the offender of his rights in the vehicle (including its fuel) at the time of his conviction and to vest those rights in the relevant enforcement authority.

(4) In a case where a vehicle has been seized under section 34B below and the offender retains rights in any of the vehicle's contents, an order under this section may, if and to the extent that it so specifies, deprive the offender of those rights and vest them in the relevant enforcement authority.

(5) Where an order under this section is made, the relevant enforcement authority may take possession of the vehicle (if it has not already done so under section 34C below).

(6) The court may make an order under this section whether or not it also deals with the offender in any other way in respect of the offence of which he is convicted.

(7) In considering whether to make an order under this section a court must in particular have regard to—

(a) the value of the vehicle;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making);

(c) the offender's need to use the vehicle for lawful purposes;

(d) whether, in a case where it appears to the court that the offender is engaged in a business which consists wholly or partly in activities which are unlawful by virtue of section 33 above, the making of the order is likely to inhibit the offender from engaging in further such activities.

(8) Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (power to deprive offender of property) does not apply in any case where this section applies.

(9) For the purposes of this section, where a vehicle or its contents have been seized under section 34B below in connection with the offence referred to in subsection (1) above, any transfer by the offender after the seizure and before his conviction of any of his rights in the vehicle or its contents is of no effect.

(10) In this section—

"relevant enforcement authority" means—

(a) the Environment Agency, where the proceedings in respect of the offence have been brought by or on behalf of the Agency, or

(b) in any other case, the waste collection authority in whose area the offence was committed;

"vehicle" means any motor vehicle or trailer within the meaning of the Road Traffic Regulation Act 1984 or any mobile plant."

(2) This section does not have effect in relation to an offence under section 33 of that Act committed before the commencement of this section.

Commencement Information

I56 S. 44 in force at 18.10.2005 by S.I. 2005/2896, **art. 2(c)**

Offences relating to documentation

45 Failure to furnish documentation: fixed penalty notices

In the Environmental Protection Act 1990 (c. 43), after section 34 (duty of care etc as respects waste) insert—

"**34A Fixed penalty notices for certain offences under section 34**

(1) This section applies where it appears to an enforcement authority that a person has failed to comply with a duty to furnish documents to that authority imposed under regulations made at any time under section 34(5) above.

(2) The authority may serve on that person a notice offering him the opportunity of discharging any liability to conviction for an offence under section 34(6) above by payment of a fixed penalty.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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—
- (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 is to be such as the appropriate person may by order prescribe.

(9) The fixed penalty payable to an enforcement 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 enforcement 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, an enforcement 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 enforcement 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 an enforcement authority, means the person having responsibility for the financial affairs of the authority;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"enforcement authority" means the Environment Agency or a waste collection authority."

Commencement Information

I57 S. 45 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I58 S. 45 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Offences: powers of seizure

46 Power to search and seize vehicles

(1) After section 34A of the Environmental Protection Act 1990 (c. 43) (as inserted by section 45 above), insert—

"Offences under sections 33 and 34: powers of seizure etc

34B Power to search and seize vehicles etc

(1) This section applies where an authorised officer of an enforcement authority or a constable reasonably believes that the grounds in subsection (2) or (3) below exist.

(2) The grounds in this subsection are that—
- (a) **[**[F2]a relevant offence**]** has been committed,
- (b) a vehicle was used in the commission of the offence, and
- (c) proceedings for the offence have not yet been brought against any person.

(3) The grounds in this subsection are that—
- (a) **[**[F2]a relevant offence**]** is being or is about to be committed, and
- (b) a vehicle is being or is about to be used in the commission of the offence.

(4) The authorised officer or constable may—
- (a) search the vehicle;
- (b) seize the vehicle and any of its contents.

(5) In acting under subsection (4) above the authorised officer or constable may—
- (a) stop the vehicle (but only a constable in uniform may stop a vehicle on any road);
- (b) enter any premises for the purpose of searching or seizing the vehicle.

(6) A vehicle or its contents seized under subsection (4) above—
- (a) by an authorised officer of an enforcement authority, are seized on behalf of that authority;
- (b) by a constable in the presence of an authorised officer of an enforcement authority, are seized on behalf of that authority;
- (c) by a constable without such an officer present, are seized on behalf of the waste collection authority in whose area the seizure takes place.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) A person commits an offence if—

(a) 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 subsection (4) or (5) above;

(b) he otherwise intentionally obstructs an authorised officer or constable in exercising that power.

(8) Where an authorised officer or constable has stopped a vehicle under subsection (5)(a) above, he may 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.

(9) A person commits an offence if—

(a) he fails without reasonable excuse to comply with a requirement under subsection (8) 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.

(10) 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.

(11) In this section and section 34C below—

"authorised officer" means an officer of an enforcement authority who is authorised in writing by the authority for the purposes of this section;

"enforcement authority" means—

(a) the Environment Agency, or

(b) a waste collection authority;

[F3"relevant offence" means—

(a) an offence under section 33 above, or

(b) an offence under section 34 above consisting of a failure to comply with the duty imposed by subsection (1) of that section;]

"road" has the same meaning as in the Road Traffic Regulation Act 1984;

"vehicle" means any motor vehicle or trailer within the meaning of that Act or any mobile plant.

34C Seizure of vehicles etc: supplementary

(1) Where under section 34B above an authorised officer or constable seizes a vehicle or its contents ("seized property") on behalf of an enforcement authority, the authority may remove the seized property to such a place as it considers appropriate.

(2) An enforcement authority must deal with any seized property in accordance with regulations made by the appropriate person.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Regulations under subsection (2) above may in particular include provision as to—

(a) the duties of enforcement authorities in relation to the safe custody of seized property;

(b) the circumstances in which they 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 an enforcement 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 enforcement 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 enforcement authorities in relation to the performance of their functions under regulations under subsection (2) above.”

(2) In section 71 of that Act (obtaining information from persons and authorities)—

(a) after subsection (2) insert—

“(2A) A waste collection authority has the power referred to in subsection (2) for the purpose of the discharge of its functions under sections 34B and 34C above.”;

(b) in subsection (3) after “subsection (2)” insert “ or (2A) ”.

Textual Amendments

F2 Words in s. 46(1) substituted (21.11.2005) by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005 (S.I. 2005/2900), **reg. 3(2)**

F3 Words in s. 46(1) inserted (21.11.2005) by The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005 (S.I. 2005/2900), **reg. 3(3)**

Commencement Information

I59 S. 46 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Local authority waste collection and disposal

47 Abolition of requirement to contract out waste disposal functions

Section 32 of and Schedule 2 to the Environmental Protection Act 1990 (c. 43) (power to require local authorities to transfer waste disposal functions etc to specially formed companies) shall cease to have effect.

Commencement Information

I60 S. 47 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(g)** (with art. 6) (as amended by S.I. 2006/1002, art. 2)

I61 S. 47 in force at 16.3.2006 for W. by S.I. 2006/768, **art. 2(a)**

48 Offences relating to waste receptacles: fixed penalty notices

In the Environmental Protection Act 1990, after section 47 (receptacles for commercial or industrial waste) insert—

"47ZA Fixed penalty notices for offences under sections 46 and 47

(1) This section applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 or 47 above in the area of that authority.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the waste collection authority.

(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 the 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 that 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—
- (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.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 is to be such as the appropriate person may by order prescribe.

(9) In any proceedings a certificate which—
  (a) purports to be signed on behalf of the chief finance officer of the waste collection 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.

(10) In this section—

  "authorised officer", in relation to a waste collection authority, means—
  (a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
  (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
  (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

  "chief finance officer", in relation to a waste collection authority, means the person having responsibility for the financial affairs of the authority.

47ZB Amount of fixed penalty under section 47ZA

(1) This section applies in relation to a fixed penalty payable to a waste collection authority in pursuance of a notice under section 47ZA above.

(2) The amount of the fixed penalty—
  (a) is the amount specified by the waste collection authority in relation to the authority's area, or
  (b) if no amount is so specified, is £100.

(3) The waste collection authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(4) The appropriate person may by regulations make provision in connection with the powers conferred on waste collection authorities under subsections (2)(a) and (3) above.

(5) Regulations under subsection (4) may (in particular)—
  (a) require an amount specified under subsection (2)(a) above to fall within a range prescribed in the regulations;
  (b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (3) above.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b) above."

Commencement Information

I62 S. 48 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I63 S. 48 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

49 Payments for waste recycling and disposal

(1) Section 52 of the Environmental Protection Act 1990 (c. 43) (payments for recycling and disposal etc of waste) is amended as follows.

(2) In subsection (1) after "so retained" insert—

"(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste disposal authority in Wales".

(3) After subsection (1) insert—

"(1A) The Secretary of State may by order disapply subsection (1) above in relation to any waste disposal authority constituted under section 10 of the Local Government Act 1985 (joint arrangements for waste disposal in London and metropolitan counties)."

(4) After subsection (1A) (as inserted by subsection (3) above) insert—

"(1B) A waste disposal authority is not required to make payments to a waste collection authority under subsection (1) above where, on the basis of arrangements involving the two authorities, the waste collection authority has agreed that such payments need not be made."

(5) In subsection (2) after "so collected" insert—

"(a) in the case of a waste collection authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste collection authority in Wales".

(6) In subsection (3) after "so collected" insert—

"(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste disposal authority in Wales".

(7) In subsection (4) after "so collected" insert—

"(a) in the case of a waste collection authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and

(b) in the case of a waste collection authority in Wales".

(8) After subsection (8) insert—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(8A) The Secretary of State may give guidance—

(a) to a waste disposal authority in England, for the purposes of determining whether to exercise the power in subsection (3) above;

(b) to a waste collection authority in England, for the purposes of determining whether to exercise the power in subsection (4) above."

(9) At the end insert—

"(12) In this section, references to recycling waste include re-using it (whether or not the waste is subjected to any process)."

Commencement Information

I64 S. 49(1) in force at 7.3.2006 by S.I. 2006/656, **art. 2(a)**
I65 S. 49(2) in force at 7.3.2006 for specified purposes by S.I. 2006/656, **art. 2(b)**
I66 S. 49(2) in force at 6.4.2006 in so far as not already in force by S.I. 2006/656, **art. 3(b)**
I67 S. 49(3) in force at 7.3.2006 by S.I. 2006/656, **art. 2(c)**
I68 S. 49(4) in force at 6.4.2006 by S.I. 2006/656, **art. 3(a)**
I69 S. 49(6) in force at 7.3.2006 for specified purposes by S.I. 2006/656, **art. 2(d)**
I70 S. 49(6) in force at 6.4.2006 in so far as not already in force by S.I. 2006/656, **art. 3(b)**
I71 S. 49(8) in force at 6.4.2006 for specified purposes by S.I. 2006/656, **art. 3(c)**
I72 S. 49(9) in force at 6.4.2006 by S.I. 2006/656, **art. 3(d)**

50 Power to require owner of land to remove waste

(1) In section 59 of the Environmental Protection Act 1990 (c. 43) (power to require removal of waste unlawfully deposited), in subsection (7)(b) after "occupier of the land" insert " or the occupier cannot be found without the authority incurring unreasonable expense ".

(2) After that section insert—

"59ZA Section 59: supplementary power in relation to owner of land

(1) Where the grounds in subsection (2), (3) or (4) below are met, a waste regulation authority or waste collection authority may, by notice served on him, require the owner of any land in its area to comply with either or both of the requirements mentioned in subsection (1)(a) and (b) of section 59 above.

(2) The grounds in this subsection are that it appears to the authority that waste has been deposited in or on the land in contravention of section 33(1) above and—

(a) there is no occupier of the land, or

(b) the occupier cannot be found without the authority incurring unreasonable expense.

(3) The grounds in this subsection are that—

(a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,

(b) the occupier of the land is not the same person as the owner of the land, and

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the occupier has failed to comply with the requirement mentioned in paragraph (a) above within the period specified in the notice.

(4) The grounds in this subsection are that—

(a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,

(b) the occupier of the land is not the same person as the owner of the land, and

(c) the requirement mentioned in paragraph (a) above has been quashed on the ground specified in subsection (3)(a) of that section.

(5) Subsections (2) to (6) of section 59 above apply in relation to requirements imposed under this section on the owner of the land as they apply in relation to requirements imposed under that section on the occupier of the land but as if in subsection (3) there were inserted after paragraph (a)—

"(aa) in order to comply with the requirement the appellant would be required to enter the land unlawfully; or".

(6) In this section "owner" has the meaning given to it in section 78A(9) below."

Commencement Information

I73 S. 50 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I74 S. 50 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(i)**

Supplementary

51 "Appropriate person"

In section 29 of the Environmental Protection Act 1990 (c. 43), after subsection (1) insert—

"(1A) "Appropriate person" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the National Assembly for Wales."

52 Use of fixed penalty receipts

In the Environmental Protection Act 1990 (c. 43), after section 73 insert—

"**73A Use of fixed penalty receipts**

(1) The Environment Agency must pay amounts received by it under section 34A above to the Secretary of State.

(2) A waste collection authority may use amounts received by it under section 34A or 47ZA above (its "fixed penalty receipts") only for the purposes of—

(a) its functions under this Part (including functions relating to the enforcement of offences under this Part); and

(b) such other of its functions as may be specified in regulations made by the appropriate person.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Regulations under subsection (2)(b) above may (in particular) have the effect that a waste collection authority may use its fixed penalty receipts for the purposes of any of its functions.

(4) 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.

(5) 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 (2) above;

(ii) if they are not so used before such time after their receipt as may be specified by the regulations;

(b) make provision for accounting arrangements in respect of a waste collection authority's fixed penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the waste collection authority.

(7) Before making regulations under this section, the appropriate person must consult—

(a) the waste collection authorities to which the regulations are to apply;

(b) such other persons as the appropriate person thinks fit.

(8) Regulations under this section may make different provision for different purposes (including different provision in relation to different authorities or different descriptions of authority).

(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.”

Commencement Information

I75 S. 52 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I76 S. 52 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

53 Supplementary enforcement powers

In section 108 of the Environment Act 1995 (c. 25) (powers of enforcing authorities etc), in subsection (15), in the definition of “pollution control functions” in relation to a waste collection authority, for “conferred on it by section 59” substitute “ conferred or imposed on it by or under Part 2 ”.

Commencement Information

I77 S. 53 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(h)**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

I78 S. 53 in force at 16.3.2006 for W. by S.I. 2006/768, **art. 2(b)**

CHAPTER 3

SITE WASTE

54 Site waste management plans

(1) The appropriate person may by regulations make provision requiring persons of a specified description—

(a) to prepare plans for the management and disposal of waste created in the course of specified descriptions of works involving construction or demolition;

(b) to comply with such plans.

(2) Descriptions of works that may be specified under subsection (1)(a) include in particular description by reference to the cost or likely cost of such works.

(3) Regulations under this section may make supplementary and incidental provision, including in particular provision as to—

(a) the circumstances in which plans must be prepared;

(b) the contents of plans;

(c) enforcement authorities in relation to plans and the powers of such authorities;

(d) the keeping of plans and their production to enforcement authorities;

(e) offences in relation to a failure to comply with a requirement under the regulations;

(f) penalties for those offences;

(g) the discharging of liability for an offence under the regulations by the payment of a fixed penalty to an enforcement authority;

(h) the uses to which such payments may be put by enforcement authorities.

(4) Regulations under this section may make different provision for different purposes.

(5) Regulations under this section making provision under subsection (3)(h) may in particular make different provision relating to different enforcement authorities or different descriptions of enforcement authority (including provision framed by reference to performance categories under section 99(4) of the Local Government Act 2003 (c. 26)).

(6) Regulations under this section are to be made by statutory instrument.

(7) A statutory instrument containing regulations made by the Secretary of State under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) The appropriate person may give guidance to persons who are enforcement authorities under subsection (3)(c) in relation to the powers conferred on them under that provision.

(9) In this section—

"appropriate person" means—

(a) in relation to works in England, the Secretary of State;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in relation to works in Wales, the National Assembly for Wales;

"specified" means specified in regulations under this section.

PART 6

DOGS

CHAPTER 1

CONTROLS ON DOGS

Modifications etc. (not altering text)

C1 Pt. 6 Ch. 1 excluded (6.4.2006) (E.) by The Controls on Dogs (Non-application to Designated Land) Order 2006 (S.I. 2006/779), arts. 1(b), 3, **Sch.**

Dog control orders

55 Power to make dog control orders

(1) A primary or secondary authority may in accordance with this Chapter make an order providing for an offence or offences relating to the control of dogs in respect of any land in its area to which this Chapter applies.

(2) An order under subsection (1) is to be known as a "dog control order".

(3) For the purposes of this Chapter an offence relates to the control of dogs if it relates to one of the following matters—

(a) fouling of land by dogs and the removal of dog faeces;

(b) the keeping of dogs on leads;

(c) the exclusion of dogs from land;

(d) the number of dogs which a person may take on to any land.

(4) An offence provided for in a dog control order must be an offence which is prescribed for the purposes of this section by regulations made by the appropriate person.

(5) Regulations under subsection (4) may in particular—

(a) specify all or part of the wording to be used in a dog control order for the purpose of providing for any offence;

(b) permit a dog control order to specify the times at which, or periods during which, an offence is to apply;

(c) provide for an offence to be defined by reference to failure to comply with the directions of a person of a description specified in the regulations.

(6) A dog control order may specify the land in respect of which it applies specifically or by description.

(7) A dog control order may be revoked or amended by the authority which made it; but this Chapter applies in relation to any amendment of a dog control order as if it were the making of a new order.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I79 S. 55 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I80 S. 55 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I81 S. 55 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

56 Dog control orders: supplementary

(1) The appropriate person must by regulations prescribe the penalties, or maximum penalties, which may be provided for in a dog control order in relation to any offence.

(2) Regulations under subsection (1) may not in any case permit a dog control order to provide for a penalty other than a fine not exceeding level 3 on the standard scale in relation to any offence.

(3) The appropriate person must by regulations prescribe such other requirements relating to the content and form of a dog control order as the appropriate person thinks fit.

(4) The appropriate person must by regulations prescribe the procedure to be followed by a primary or secondary authority before and after making a dog control order.

(5) Regulations under subsection (4) must in particular include provision as to—
- (a) consultation to be undertaken before a dog control order is made;
- (b) the publicising of a dog control order after it has been made.

Commencement Information

I82 S. 56 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I83 S. 56 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I84 S. 56 in force at 27.10.2006 for W. in so far as not already in force by S.I. 2006/2797, **art. 2(j)**

57 Land to which Chapter 1 applies

(1) Subject to this section, this Chapter applies to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

(2) For the purposes of this section, any land which is covered is to be treated as land which is "open to the air" if it is open to the air on at least one side.

(3) The appropriate person may by order designate land as land to which this Chapter does not apply (generally or for such purposes as may be specified in the order).

(4) Land may be designated under subsection (3) specifically or by description.

(5) Where a private Act confers powers on a person other than a primary or secondary authority for the regulation of any land, that person may, by notice in writing given to the primary and secondary authorities in whose area the land is situated, exclude the application of this Chapter to that land.

Commencement Information

I85 S. 57 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

I86 S. 57 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**
I87 S. 57 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

58 Primary and secondary authorities

(1) Each of the following is a "primary authority" for the purposes of this Chapter—
- (a) a district council in England;
- (b) a county council in England for an area for which there is no district council;
- (c) a London borough council;
- (d) the Common Council of the City of London;
- (e) the Council of the Isles of Scilly;
- (f) a county or county borough council in Wales.

(2) Each of the following is a "secondary authority" for the purposes of this Chapter—
- (a) a parish council in England;
- (b) a community council in Wales.

(3) The appropriate person may by order designate any person or body exercising functions under an enactment as a secondary authority for the purposes of this Chapter in respect of an area specified in the order.

Commencement Information
I88 S. 58 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**
I89 S. 58 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Fixed penalty notices

59 Fixed penalty notices

(1) This section applies where on any occasion—
- (a) an authorised officer of a primary or secondary authority has reason to believe that a person has committed an offence under a dog control order made by that authority; or
- (b) an authorised officer of a secondary authority has reason to believe that a person has in its area committed an offence under a dog control order made by a primary authority.

(2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(3) A fixed penalty payable under this section is payable to the primary or secondary authority whose officer gave the notice.

(4) 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 the 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 that period.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) 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.

(6) A notice under this section must also state—

(a) the period during which, by virtue of subsection (4), 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.

(7) 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 (6)(c) at the address so mentioned.

(8) Where a letter is sent in accordance with subsection (7) 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.

(9) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(10) In any proceedings a certificate which—

(a) purports to be signed on behalf of the chief finance officer of a primary or secondary 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.

(11) In this section—

"authorised officer", in relation to a primary or secondary authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

"chief finance officer", in relation to a primary or secondary authority, means the person having responsibility for the financial affairs of the authority.

(12) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a secondary authority may authorise him in writing for the purpose of giving notices under this section.

Commencement Information

I90 S. 59 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I91 S. 59 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I92 S. 59 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

60 Amount of fixed penalties

(1) The amount of a fixed penalty payable to a primary or secondary authority in pursuance of a notice under section 59 in respect of an offence under a dog control order—

(a) is the amount specified by the authority which made the order;

(b) if no amount is so specified, is £75.

(2) A primary or secondary authority may under subsection (1)(a) specify different amounts in relation to different offences.

(3) A primary or secondary authority may make provision for treating a fixed penalty payable to that authority in pursuance of a notice under section 59 as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(4) The appropriate person may by regulations make provision in connection with the powers conferred on primary and secondary authorities under subsections (1)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—

(a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a primary or secondary authority can make provision under subsection (3).

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

Commencement Information

I93 S. 60 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I94 S. 60 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I95 S. 60 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

61 Power to require name and address

(1) If an authorised officer of a primary or secondary authority proposes to give a person a notice under section 59, the officer may require the person to give him his name and address.

(2) A person commits an offence if—

(a) he fails to give his name and address when required to do so under subsection (1), or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) In this section “authorised officer” has the same meaning as in section 59.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I96 S. 61 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

62 Community support officers etc

(1) The Police Reform Act 2002 (c. 30) is amended as follows.

(2) In Schedule 4 (community support officers), in paragraph 1(2), after paragraph (d) insert "and

(e) the power of an authorised officer of a primary or secondary authority, within the meaning of section 59 of the Clean Neighbourhoods and Environment Act 2005, to give a notice under that section (fixed penalty notices in respect of offences under dog control orders)."

(3) In Schedule 5 (accredited persons), in paragraph 1(2), after paragraph (c) insert "and

(d) the power of an authorised officer of a primary or secondary authority, within the meaning of section 59 of the Clean Neighbourhoods and Environment Act 2005, to give a notice under that section (fixed penalty notices in respect of offences under dog control orders)."

Commencement Information

I97 S. 62 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Supplementary

63 Overlapping powers

(1) Where a primary authority makes a dog control order providing for an offence relating to a matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land—

(a) a secondary authority may not make a dog control order providing for any offence which relates to the matter specified in that paragraph as respects that land;

(b) any dog control order previously made by a secondary authority providing for any offence which relates to the matter specified in that paragraph shall, to the extent that it so provides, cease to have effect.

(2) Where the area of an authority designated as a secondary authority under section 58(3) is to any extent the same as that of a parish or community council, subsection (1) applies in relation to orders made by the designated authority and that council as if the council were a primary authority.

Commencement Information

I98 S. 63 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

64 Byelaws

(1) Where, apart from this subsection, a primary or secondary authority has at any time power to make a byelaw in relation to any matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land, it may not make such a byelaw if at that time it has power under this Chapter to make a dog control order as respects that land in relation to the matter specified in that paragraph.

(2) Subsection (1) does not affect any byelaw which the authority had power to make at the time it was made.

(3) Where a dog control order is made in relation to any matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land, any byelaw previously made by a primary or secondary authority which has the effect of making a person guilty of any offence in relation to the matter specified in that paragraph as respects that land shall cease to have that effect.

(4) Where any act or omission would, apart from this subsection, constitute an offence under a dog control order and any byelaw, the act or omission shall not constitute an offence under the byelaw.

Commencement Information
I99 S. 64 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

65 Dogs (Fouling of Land) Act 1996

The Dogs (Fouling of Land) Act 1996 (c. 20) shall cease to have effect.

Commencement Information
I100 S. 65 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

General

66 "Appropriate person"

In this Chapter, "appropriate person" means—
(a) the Secretary of State, in relation to England;
(b) the National Assembly for Wales, in relation to Wales.

Commencement Information
I101 S. 66 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**
I102 S. 66 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(k)**

67 Regulations and orders

(1) Any power conferred by this Chapter on the Secretary of State or National Assembly for Wales to make regulations or an order includes—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) power to make different provision for different purposes (including different provision for different authorities or different descriptions of authority);

(b) power to make consequential, supplementary, incidental and transitional provision and savings.

(2) Any power conferred by this Chapter on the Secretary of State or National Assembly for Wales to make regulations or an order is exercisable by statutory instrument.

(3) The Secretary of State may not make a statutory instrument containing regulations under section 55(4) or 56(1) unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) A statutory instrument containing—

(a) regulations made by the Secretary of State under this Chapter to which subsection (3) does not apply, or

(b) an order made by the Secretary of State under this Chapter,

is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I103 S. 67 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I104 S. 67 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I105 S. 67 in force at 27.10.2006 for W. in so far as not already in force by S.I. 2006/2797, **art. 2(l)**

VALID FROM 06/04/2008

CHAPTER 2

STRAY DOGS

68 Termination of police responsibility for stray dogs

(1) Section 3 of the Dogs Act 1906 (c. 32) (seizure of stray dogs by police) shall, subject to subsection (2), cease to have effect.

(2) The repeal in subsection (1) does not apply for the purposes of section 2(2) and (3) of the Dogs (Protection of Livestock) Act 1953 (c. 28).

(3) In section 150 of the Environmental Protection Act 1990 (c. 43) (delivery of stray dogs to police or local authority officer), in subsection (1)—

(a) in paragraph (b), omit sub-paragraph (ii) and the preceding “or”;

(b) omit the words from “or the police officer” to “as the case may be,”.

(4) In the heading to that section, omit “police or”.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 7

NOISE

CHAPTER 1

AUDIBLE INTRUDER ALARMS

Alarm notification areas

69 Designation of alarm notification areas

(1) A local authority may designate all or any part of its area as an alarm notification area.

(2) If a local authority proposes to designate an area as an alarm notification area it must arrange for notice of the proposal to be published in a newspaper circulating in the area.

(3) The notice must state—
- (a) that representations may be made to the authority about the proposal;
- (b) that any such representations must be made before a specified date.

(4) The specified date must be at least 28 days after the date on which the notice is published in accordance with subsection (2).

(5) The local authority must consider any representations about the proposal which it receives before the specified date.

(6) If a local authority decides to designate an area as an alarm notification area it must—
- (a) arrange for notice of the decision to be published in a newspaper circulating in the area, and
- (b) send a copy of the notice to the address of all premises in the area.

(7) The notice must specify the date on which the designation is to have effect.

(8) The date specified must be at least 28 days after the date on which the notice is published in accordance with subsection (6)(a).

(9) If a local authority decides not to designate an area as an alarm notification area it must arrange for notice of the decision to be published in a newspaper circulating in the area.

Commencement Information
I106 S. 69 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

70 Withdrawal of designation

(1) A local authority which has designated an area as an alarm notification area may withdraw the designation.

(2) If a local authority decides to withdraw a designation of an area as an alarm notification area, it must—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) arrange for notice of the decision to be published in a newspaper circulating in the area, and

(b) send a copy of the notice to the address of all premises in the area.

(3) The notice must specify the date on which the withdrawal of the designation is to have effect.

Commencement Information

I107 S. 70 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

71 Notification of nominated key-holders

(1) This section and section 72 apply in relation to premises if—

(a) the premises are in an area designated by a local authority as an alarm notification area, and

(b) an audible intruder alarm has been installed in or on the premises.

(2) The responsible person must—

(a) nominate a key-holder in respect of the premises in accordance with section 72;

(b) notify the local authority in writing before the end of the required period of the name, address and telephone number of the key-holder nominated in respect of the premises in accordance with that section.

(3) The required period for the purposes of subsection (2)(b) is the period before the end of which the key-holder is required to be nominated in accordance with section 72.

(4) A person commits an offence if he fails to comply with a requirement of subsection (2).

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I108 S. 71 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

72 Nomination of key-holders

(1) The responsible person must before the end of the required period nominate a person as a key-holder in respect of the premises.

(2) The required period for the purposes of subsection (1) is—

(a) if the alarm was installed before the date on which the designation of the area had effect, the period of 28 days starting with that date;

(b) if the alarm was installed on or after that date, the period of 28 days starting with the date on which the installation was completed.

(3) A person may be nominated as a key-holder in respect of premises under this section only if—

(a) he holds keys sufficient to enable him to gain access to the part of the premises in which the controls for the alarm are situated;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) he normally resides or is situated in the vicinity of the premises;
(c) he has information sufficient to enable him to silence the alarm;
(d) he agrees to be a nominated key-holder in respect of the premises;
(e) where the premises are residential premises, he falls within subsection (4);
(f) where the premises are non-residential premises, he falls within subsection (5).

(4) A person falls within this subsection if he is—
(a) an individual who is not the occupier of the premises, or
(b) a key-holding company.

(5) A person falls within this subsection if he is—
(a) an individual who—
(i) is the responsible person, or
(ii) is acting on behalf of the responsible person, if the responsible person is not an individual, or
(b) a key-holding company.

(6) If the responsible person becomes aware that a person who has been nominated as a key-holder in respect of premises under this section no longer satisfies one or more of the requirements in subsection (3), the responsible person must before the end of the required period nominate another person as a key-holder in respect of the premises.

(7) The required period for the purposes of subsection (6) is the period of 28 days starting with the date on which the responsible person becomes aware of that fact.

(8) In this section—

"key-holding company" means a body corporate or an unincorporated association—
(a) the business of which consists of or includes holding keys, and
(b) which is capable of being contacted at any hour of the day;

"non-residential premises" means premises which are not residential premises;

"residential premises" means premises all or part of which comprise a dwelling.

Commencement Information
I109 S. 72 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

73 Offences under section 71: fixed penalty notices

(1) This section applies if it appears to an authorised officer of a local authority that a person has committed an offence under section 71(4) in the area of the local authority.

(2) The officer may give the person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(3) If a person is given a notice under this section in respect of an offence—
(a) no proceedings may be instituted for the offence before the end of the period of 14 days starting with the day after that on which the notice is given, and

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) he may not be convicted of the offence if he pays the fixed penalty before the end of that 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—

(a) the period during which, by virtue of subsection (3), 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) 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) at the address so mentioned.

(7) If a letter is sent in accordance with subsection (6) payment is to be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post.

(8) Subsection (6) does not prevent payment of the fixed penalty being made by another method.

(9) In any proceedings a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of a local 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.

(10) The form of a notice under this section is to be such as the appropriate person may by order prescribe.

(11) In this section—

"authorised officer", in relation to a local authority, means—

(a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;

(b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;

(c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

"chief finance officer", in relation to a local authority, is the person having responsibility for the financial affairs of the authority.

Commencement Information

I110 S. 73 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I111 S. 73 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

74 Amount of fixed penalty

(1) This section applies in relation to a penalty payable to a local authority in pursuance of a notice under section 73.

(2) The amount of the penalty is—
- (a) the amount specified by the local authority in relation to its area, or
- (b) if no amount is so specified, £75.

(3) The local authority may make provision for treating the penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(4) The appropriate person may by regulations make provision in connection with the powers conferred on local authorities under subsections (2)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—
- (a) require an amount specified under subsection (2)(a) to fall within a range prescribed in the regulations;
- (b) restrict the extent to which, and the circumstances in which, an authority can make provision under subsection (3).

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b).

Commencement Information

I112 S. 74 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I113 S. 74 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I114 S. 74 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

75 Use of fixed penalty receipts

(1) A local authority may use any sums it receives in respect of fixed penalties payable in pursuance of notices given under section 73 (its "penalty receipts") only for the purposes of functions of its that are qualifying functions.

(2) The following are qualifying functions for the purposes of this section—
- (a) functions under this Chapter;
- (b) functions under the Noise Act 1996 (c. 37);
- (c) functions under sections 79 to 82 of the Environmental Protection Act 1990 (c. 43) (statutory nuisances) in connection with statutory nuisances falling with section 79(1)(g) or (ga) (noise) of that Act;
- (d) functions of a description specified in regulations made by the appropriate person.

(3) Regulations under subsection (2)(d) may (in particular) have the effect that a local authority may use its penalty receipts for the purposes of any of its functions.

(4) A local authority must supply the appropriate person with such information relating to the use of its penalty receipts as the appropriate person may require.

(5) The appropriate person may by regulations—
- (a) make provision for what a local authority is to do with its penalty receipts—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) pending their being used for the purposes of qualifying functions of the authority;

(ii) if they are not so used before such time after their receipt as may be specified by the regulations;

(b) make provision for accounting arrangements in respect of a local authority's penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the local authority.

(7) Before making regulations under this section the appropriate person must consult—

(a) the local authorities to which the regulations are to apply, and

(b) such other persons as the appropriate person thinks fit.

(8) 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 (c. 26), to be regarded as included among the powers mentioned in subsection (2) of that section.

Commencement Information

I115 S. 75 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I116 S. 75 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I117 S. 75 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

76 Fixed penalty notices: power to require name and address

(1) If an authorised officer of a local authority proposes to give a person a notice under section 73, the officer may require the person to give him his name and address.

(2) A person commits an offence if—

(a) he fails to give his name and address when required to do so under subsection (1), or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) “Authorised officer” has the meaning given in section 73.

Commencement Information

I118 S. 76 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Powers in relation to alarms

77 Power of entry

(1) This section applies if an authorised officer of a local authority is satisfied that the conditions in subsection (2) are met in relation to an audible intruder alarm installed in or on premises in the area of the local authority.

(2) The conditions are—

(a) that the alarm has been sounding continuously for more than twenty minutes or intermittently for more than one hour;

(b) that the sounding of the alarm is likely to give persons living or working in the vicinity of the premises reasonable cause for annoyance;

(c) if the premises are in an alarm notification area, that reasonable steps have been taken to get the nominated key-holder to silence the alarm.

(3) The officer may enter the premises for the purpose of silencing the alarm.

(4) The officer may not enter premises by force under this section.

(5) The officer must, if required, show evidence of his authority to act under this section.

(6) In this section—

"authorised officer" means an officer of a local authority who is authorised by the authority (generally or specifically) for the purposes of this section;

"nominated key-holder", in respect of premises in the area of a local authority, means a person in respect of whom the authority has received notification in accordance with section 71(2)(b).

Commencement Information

I119 S. 77 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

78 Warrant to enter premises by force

(1) This section applies if, on an application made by an authorised officer of a local authority, a justice of the peace is satisfied—

(a) that the conditions in section 77(2)(a) and (b) are met in relation to an audible intruder alarm installed in or on premises in the area of the local authority,

(b) if the premises are in an alarm notification area, that the condition in section 77(2)(c) is met, and

(c) that the officer is unable to gain entry to the premises without the use of force.

(2) The justice of the peace may issue a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.

(3) Before applying for a warrant under this section, the officer must leave a notice at the premises stating—

(a) that the officer is satisfied that the sounding of the alarm is likely to give persons living or working in the vicinity of the premises reasonable cause for annoyance, and

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) that an application is to be made for a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.

(4) The officer must, if required, show evidence of a warrant issued under this section.

(5) "Authorised officer" has the meaning given in section 77.

Commencement Information

I120 S. 78 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

79 Powers of entry: supplementary

(1) This section applies where an officer of a local authority enters any premises under section 77 or under a warrant issued under section 78.

(2) The officer may take any steps he thinks necessary for the purpose of silencing the alarm.

(3) The officer may take with him—
(a) such other persons, and
(b) such equipment,
as he thinks necessary for the purpose of silencing the alarm.

(4) The officer and any person who enters the premises with him by virtue of subsection (3) must not cause more damage to or disturbance at the premises than is necessary for the purpose of silencing the alarm.

(5) If the premises are unoccupied or (where the premises are occupied) the occupier of the premises is temporarily absent the officer must—
(a) leave a notice at the premises stating what action has been taken on the premises under this section and section 77 or 78;
(b) leave the premises (so far as is reasonably practicable) as effectively secured against entry as he found them.

(6) But the officer is not required by virtue of subsection (5)(b) to re-set the alarm.

(7) Any expenses reasonably incurred by the local authority in connection with entering the premises, silencing the alarm and complying with subsection (5) may be recovered by the authority from the responsible person.

(8) A warrant under section 78 continues in force until—
(a) the alarm has been silenced, and
(b) the officer has complied with subsection (5) (if that subsection applies).

(9) Nothing done by, or by a member of, a local authority or by an officer of or another person authorised by a local authority, if done in good faith for the purposes of section 77, 78 or this section, is to subject the authority or any of those persons personally to any action, liability, claim or demand.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I121 S. 79 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Supplementary

80 Orders and regulations

(1) This section applies to a power conferred on the appropriate person under any provision of this Chapter to make an order or regulations.

(2) The power includes—
- (a) power to make different provision for different purposes (including different provision for different local authorities and descriptions of local authority);
- (b) power to make consequential, supplementary, incidental, transitional and saving provision.

(3) The power is exercisable by statutory instrument.

(4) A statutory instrument containing an order or regulations made by the Secretary of State under any provision of this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information
I122 S. 80 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**
I123 S. 80 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(m)**

81 Interpretation

(1) In this Chapter—

"alarm notification area" means an area in respect of which a designation under section 69 has effect;

"the appropriate person" is—
- (a) in relation to a local authority in England, the Secretary of State;
- (b) in relation to a local authority in Wales, the National Assembly for Wales;

"local authority" means—
- (a) a district council in England;
- (b) a county council in England for an area for which there is no district council;
- (c) a London borough council;
- (d) the Common Council of the City of London;
- (e) the Council of the Isles of Scilly;
- (f) a county or county borough council in Wales;

"the occupier" in respect of premises means (subject to subsection (2))—
- (a) a person occupying the premises, or
- (b) if the premises are unoccupied, a person entitled to occupy the premises (other than the owner);

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"premises" does not include a vehicle;

"the responsible person" in respect of premises means—

(a) the occupier, or

(b) if there is no occupier, the owner.

(2) The fact that a person is occupying premises is to be disregarded for the purposes of this Chapter if—

(a) the premises comprise a building that is being erected, constructed, altered, improved, maintained, cleaned or repaired,

(b) the person is occupying the premises in connection with the erection, construction, alteration, improvement, maintenance, cleaning or repair, and

(c) the person is doing so by virtue of a licence granted for less than four weeks.

Commencement Information

I124 S. 81 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I125 S. 81 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(n)**

CHAPTER 2

GENERAL

Noise from premises

82 Noise offences: fixed penalty notices

(1) In section 8 of the Noise Act 1996 (c. 37) (fixed penalty notices), omit subsection (8) (amount of fixed penalty).

(2) After that section insert—

"**8A Amount of fixed penalty**

(1) This section applies in relation to a fixed penalty payable to a local authority in pursuance of a notice under section 8.

(2) The amount of the fixed penalty—

(a) is the amount specified by the local authority in relation to the authority's area, or

(b) if no amount is so specified, is £100.

(3) The local authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.

(4) The appropriate person may by regulations make provision in connection with the powers conferred on local authorities under subsections (2)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) require an amount specified under subsection (2)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a local authority can make provision under subsection (3).

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b).

8B Fixed penalty notices: power to require name and address

(1) If an officer of a local authority who is authorised for the purposes of section 8 proposes to give a person a fixed penalty notice, the officer may require the person to give him his name and address.

(2) A person commits an offence if—

(a) he fails to give his name and address when required to do so under subsection (1), or

(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale."

Commencement Information

I126 S. 82 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I127 S. 82 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

83 Noise offences: use of fixed penalty receipts

(1) Section 9 of the Noise Act 1996 (c. 37) (fixed penalty notices: supplementary) is amended as follows.

(2) In subsection (4A) (qualifying functions for the use of penalty receipts), omit "and" at the end of paragraph (a) and after that paragraph insert—

"(aa) functions under Chapter 1 of Part 7 of the Clean Neighbourhoods and Environment Act 2005;

(ab) functions under sections 79 to 82 of the Environmental Protection Act 1990 (statutory nuisances) in connection with statutory nuisances falling with section 79(1)(g) or (ga) (noise) of that Act;".

(3) After subsection (4F) insert—

"(4G) 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.

(4H) Regulations under this section relating to local authorities in England may—

(a) make provision in relation to—

(i) all local authorities,

(ii) particular local authorities, or

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(iii) particular descriptions of local authority;

(b) make different provision in relation to different local authorities or descriptions of local authority."

Commencement Information

I128 S. 83(2) in force at 7.6.2005, see s. 108(4)

I129 S. 83(1)(3) in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I130 S. 83(1)(3) in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(o)**

84 Extension of Noise Act 1996 to licensed premises etc

Schedule 1 (which makes provision amending the Noise Act 1996 (c. 37) so that it applies to licensed premises etc) has effect.

Commencement Information

I131 S. 84 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I132 S. 84 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I133 S. 84 in force at 1.10.2006 for E. in so far as not already in force by S.I. 2006/2006, **art. 2**

I134 S. 84 in force at 27.10.2006 for specified purposes for W. by S.I. 2006/2797, **art. 2(p)**

85 Noise Act 1996: supplementary

(1) Section 11 of the Noise Act 1996 (interpretation and subordinate legislation) is amended as follows.

(2) After subsection (2) insert—

"(2A) In this Act "appropriate person" means—

(a) the Secretary of State, in relation to England;

(b) the National Assembly for Wales, in relation to Wales."

(3) In subsection (3), after "section 14" insert " or an order or regulations made solely by the National Assembly for Wales ".

Statutory noise nuisances

86 Deferral of duty to serve abatement notice

In section 80 of the Environmental Protection Act 1990 (c. 43) (summary proceedings for statutory nuisances), at the beginning of subsection (1) insert " Subject to subsection (2A) " and after subsection (2) insert—

"(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall—

(a) serve an abatement notice in respect of the nuisance in accordance with subsections (1) and (2) above; or

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.

(2B) If a local authority has taken steps under subsection (2A)(b) above and either of the conditions in subsection (2C) below is satisfied, the authority shall serve an abatement notice in respect of the nuisance.

(2C) The conditions are—

(a) that the authority is satisfied at any time before the end of the relevant period that the steps taken will not be successful in persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence;

(b) that the authority is satisfied at the end of the relevant period that the nuisance continues to exist, or continues to be likely to occur or recur, in the area of the authority.

(2D) The relevant period is the period of seven days starting with the day on which the authority was first satisfied that the nuisance existed, or was likely to occur or recur.

(2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance."

Commencement Information

I135 S. 86 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I136 S. 86 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(q)**

PART 8

ARCHITECTURE AND THE BUILT ENVIRONMENT

Commission for Architecture and the Built Environment

87 The Commission for Architecture and the Built Environment

(1) There is to be a body corporate to be known as the Commission for Architecture and the Built Environment (in this Part referred to as "the Commission").

(2) Schedule 2 makes further provision about the Commission.

Commencement Information

I137 S. 87 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

88 General functions of the Commission

(1) The functions of the Commission are the promotion of education and high standards in, and understanding and appreciation of—
  (a) architecture, and
  (b) the design, management and maintenance of the built environment.

(2) The Commission must discharge its functions in relation to England and may also discharge them in relation to any other place it thinks appropriate.

(3) The Commission may, for any purpose connected with the discharge of its functions—
  (a) provide, or assist in the provision of, public works, services and amenities;
  (b) take any other steps it thinks appropriate.

(4) The steps that the Commission has power to take under subsection (3)(b) include in particular—
  (a) providing advice and developing and reviewing projects (whether or not it is requested to do so);
  (b) providing financial assistance;
  (c) carrying out or supporting the carrying out of research;
  (d) commissioning or assisting in the commissioning of works of art;
  (e) establishing and administering charities;
  (f) inviting and accepting financial assistance and gifts (financial or otherwise);
  (g) entering into funding or other arrangements or agreements;
  (h) exploiting intellectual property or any other intangible asset;
  (i) making investments, subject to subsection (5);
  (j) acquiring or disposing of land, subject to subsection (6);
  (k) forming or participating in the formation of bodies corporate, subject to subsection (6).

(5) The Commission may make an investment only if the form or manner of the investment has been approved by the Secretary of State.

(6) The Commission may—
  (a) acquire or dispose of land, or
  (b) form or participate in the formation of a body corporate,
  only with the consent of the Secretary of State.

(7) If the Commission has power to take any steps under subsection (3), it may take them anywhere it thinks appropriate.

(8) The Commission may make charges in respect of any service provided by it.

(9) In discharging its functions the Commission must have regard to national policies and advice relating to sustainable development contained in guidance issued by the Secretary of State.

(10) In this section—
  "the built environment" includes—
  (a) any structure or area built or designed for human use (such as squares, parks and recreation areas);
  (b) any area available for public use which is in the vicinity of such a structure or within or in the vicinity of such an area;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"intellectual property" means—

(a) any patent, trade mark, registered design, copyright, design right, right in performance or plant breeder's right;

(b) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (a).

Commencement Information

I138 S. 88 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

89 Changes to functions of the Commission

(1) The Secretary of State may by order—

(a) confer further functions on the Commission;

(b) remove functions from the Commission;

(c) make changes to any functions of the Commission.

(2) An order under subsection (1) may confer a function on the Commission only if the function appears to the Secretary of State to be connected (directly or indirectly) to an existing or former function of the Commission.

(3) The provision that may be made in an order under subsection (1) includes provision amending or repealing any provision of an enactment conferring functions on the Commission.

(4) In preparing a draft of an order under subsection (1) the Secretary of State must consult the Commission.

Commencement Information

I139 S. 89 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

90 Power to dissolve the Commission

(1) The Secretary of State may by order make provision for the dissolution of the Commission.

(2) An order under this section may, in particular—

(a) provide for the transfer of the property, rights or liabilities of the Commission to another person;

(b) make provision enabling a person to receive anything transferred under paragraph (a) (despite any provision which would otherwise prevent, penalise or restrict it);

(c) provide for the transfer of some or all of the functions of the Commission to another person;

(d) establish a body corporate;

(e) provide for anything done by or in relation to the Commission to have effect as if done by or in relation to another person;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(f) permit anything (which may include legal proceedings) which is in the process of being done by or in relation to the Commission when a transfer takes effect, to be continued by or in relation to another person;

(g) provide for a reference to the Commission in an enactment, instrument or other document to be treated as a reference to another person.

(3) The Secretary of State may not make an order under this section providing for the transfer of property, rights, liabilities or functions to a person unless the person has consented to the transfer.

(4) An order under this section which transfers rights and liabilities relating to employees of the Commission must make provision for the **[**[F4]Transfer of Undertakings (Protection of Employment) Regulations 2006**]** to apply to that transfer.

Textual Amendments

F4 Words in s. 90(4) substituted (with application in accordance with reg. 21(1) of the amending S.I.) by The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), reg. 1(2), **Sch. 2 para. 1(k)**

Commencement Information

I140 S. 90 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

91 Dissolution of the old Commission

(1) The company limited by guarantee with registered number 3831652 and the company name "Commission for Architecture and the Built Environment" (in this Part referred to as "the old Commission") is dissolved.

(2) The Secretary of State must inform the registrar of companies of the dissolution of the old Commission before the end of the period of seven days starting on the day on which this section comes into force.

(3) On being informed of the dissolution of the old Commission, the registrar of companies must strike the name of the old Commission off the register of companies.

(4) "The registrar of companies" has the meaning given in section 744 of the Companies Act 1985 (c. 6).

Commencement Information

I141 S. 91 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

92 Transfer of staff, property etc

Schedule 3 (which provides for the transfer of staff, property, rights and liabilities from the old Commission to the Commission) has effect.

Commencement Information

I142 S. 92 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

93 Tax

(1) For the purposes of any enactment about income tax or corporation tax, the Commission and the old Commission are to be treated as the same person.

(2) In particular, the transfers effected by paragraphs 1 and 3 of Schedule 3 are to be disregarded for those purposes.

(3) Accordingly, those transfers are not to be regarded for the purposes of Schedule 29 to the Finance Act 2002 (c. 23) (gains and losses from intangible fixed assets) as involving any realisation of an asset by the old Commission or acquisition of an asset by the Commission.

(4) No transfer effected by paragraph 3 of Schedule 3 is to give rise to any liability to stamp duty or stamp duty land tax.

Commencement Information
I143 S. 93 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Financial assistance

94 Architecture and the built environment: financial assistance

(1) The Secretary of State may give financial assistance to a person for a purpose which appears to the Secretary of State to be connected with the promotion of education or high standards in, or understanding or appreciation of—
  (a) architecture, or
  (b) the design, management or maintenance of the built environment.

(2) Financial assistance under this section may be given in such form as the Secretary of State thinks fit and in particular may be given by—
  (a) making grants (whether or not repayable) or loans;
  (b) giving guarantees;
  (c) incurring expenditure;
  (d) providing services, staff or equipment.

(3) Financial assistance under this section may be given subject to conditions imposed by the Secretary of State or the Treasury.

(4) If the Secretary of State makes an order under section 89 he may by order amend this section to ensure that the purposes for which financial assistance may be given under this section reflect any changes made to the functions of the Commission by the order under section 89.

(5) "The built environment" includes—
  (a) any structure or area built or designed for human use (such as squares, parks and recreation areas);
  (b) any area available for public use which is in the vicinity of such a structure or within or in the vicinity of such an area.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I144 S. 94 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Supplementary

95 Orders

(1) This section applies to a power to make an order conferred on the Secretary of State by any provision of this Part.

(2) The power includes—
- (a) power to make different provision for different purposes;
- (b) power to make consequential, supplementary, incidental, transitional and saving provision.

(3) The power is exercisable by statutory instrument.

(4) Subject to subsection (5), the Secretary of State may not make a statutory instrument containing an order under this Part unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(5) A statutory instrument containing an order under paragraph 2(4) of Schedule 2 is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information
I145 S. 95 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

PART 9

MISCELLANEOUS

Use of fixed penalty receipts

96 Use of fixed penalty receipts: higher tier authorities

(1) This section applies in relation to—
- (a) amounts paid to an authority, other than a parish or community council, in pursuance of notices under sections 88 and 94A of and paragraph 7 of Schedule 3A to the Environmental Protection Act 1990 (c. 43);
- (b) amounts paid to an authority, other than a parish or community council, in pursuance of notices under section 43(1) of the Anti-social Behaviour Act 2003 (c. 38);
- (c) amounts paid to a primary authority, within the meaning of Chapter 1 of Part 6 above, in pursuance of notices under section 59 above.

(2) The amounts to which this section applies which are paid to an authority are in this section called the authority's “fixed penalty receipts”.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) An authority may use its fixed penalty receipts only for the purposes of qualifying functions of the authority.

(4) For the purposes of this section the "qualifying functions" of an authority are—
- (a) its functions under Part 4 of the Environmental Protection Act 1990;
- (b) its functions under section 43 of the Anti-social Behaviour Act 2003;
- (c) its functions under Chapter 1 of Part 6 above; and
- (d) such other of its functions as may be specified in regulations made by the appropriate person.

(5) Regulations under subsection (4)(d) may (in particular) have the effect that an authority may use its fixed penalty receipts for the purposes of any of its functions.

(6) An authority must supply the appropriate person with such information relating to its fixed penalty receipts as the appropriate person may require.

(7) The appropriate person may by regulations—
- (a) make provision for what an authority is to do with its fixed penalty receipts—
  - (i) pending their being used for the purposes of qualifying functions of the authority;
  - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
- (b) make provision for accounting arrangements in respect of an authority's fixed penalty receipts.

(8) The provision that may be made under subsection (7)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.

(9) 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.

(10) 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 (c. 26), to be regarded as included among the powers mentioned in subsection (2) of that section.

Commencement Information

I146 S. 96 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I147 S. 96 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I148 S. 96 in force at 6.4.2006 for E. in so far as not already in force by S.I. 2006/795, art. 2(3), **Sch. 2**

97 Use of fixed penalty receipts: lower tier authorities

(1) The appropriate person must by regulations make provision relating to—
- (a) the use by a parish or community council of amounts received by it in pursuance of notices under—
  - (i) section 88 of the Environmental Protection Act 1990 (c. 43);
  - (ii) section 43(1) of the Anti-social Behaviour Act 2003 (c. 38); and
  - (iii) section 59 above; and

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the use by a person or body designated under section 58(3) above as a secondary authority for the purposes of Chapter 1 of Part 6 above of amounts received by that person or body in pursuance of notices under section 59 above.

(2) Regulations under this section may in particular include provision requiring a parish or community council or a person or body referred to in subsection (1)(b)—

(a) to use the amounts received as specified in subsection (1) only for the purpose of such of its functions as may be specified in the regulations;

(b) to pay sums in respect of those amounts to another person (including the appropriate person);

(c) to supply information in relation to those amounts to the appropriate person;

(d) to adopt such accounting arrangements in respect of those amounts as may be specified in the regulations.

(3) Regulations under this section may include provision framed by reference to performance categories conferred on a parish or community council by such person as may be specified in the regulations.

Commencement Information

I149 S. 97 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I150 S. 97 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

98 Sections 96 and 97: supplementary

(1) In sections 96 and 97, "appropriate person" means—

(a) the Secretary of State, in relation to England;

(b) the National Assembly for Wales, in relation to Wales.

(2) The powers to make regulations conferred by sections 96 and 97 include—

(a) power to make different provision for different purposes (including different provision for different authorities or different descriptions of authority);

(b) power to make consequential, supplementary, incidental and transitional provision and savings.

(3) Regulations under sections 96 and 97 must be made by statutory instrument.

(4) The Secretary of State may not make a statutory instrument containing regulations under section 96 or 97 unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Commencement Information

I151 S. 98 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

I152 S. 98 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Shopping and luggage trolleys

99 Abandoned shopping and luggage trolleys

(1) Schedule 4 to the Environmental Protection Act 1990 (c. 43) is amended as follows.

(2) In paragraph 3(2) (retention, return and disposal of trolleys: notice to owner) for "seized or removed" substitute " seized and removed ".

(3) After paragraph 3 insert—

"3A (1) This paragraph applies where the local authority is entitled to sell or otherwise dispose of a shopping or luggage trolley in accordance with paragraph 3(1)(b).

(2) If it appears to the authority that a particular person is the owner of the trolley, the authority may charge him a sum in respect of the removal, storage and disposal of the trolley.

(3) The charge is payable to the authority on demand.

(4) The sum payable as a charge under this paragraph is recoverable by the authority as a debt due to it.

(5) In proceedings against a person under sub-paragraph (4) for enforcement of a charge, it is a defence for the person to prove that he was not the owner of the trolley to which the charge relates at the time it was removed."

(4) In paragraph 4 (charges)—

(a) in sub-paragraph (1)—

(i) for the words from "in fixing" to "sufficient" substitute " in fixing the charges to be paid under this Schedule, shall secure that the charges so payable are such as are sufficient ", and

(ii) for "such trolleys" substitute " shopping or luggage trolleys ", and

(b) in sub-paragraph (2), after "paragraph 3" insert " or 3A ".

Commencement Information

I153 S. 99 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I154 S. 99 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(r)**

100 Section 99: transitional provision

(1) This section applies if, before the commencement date, a local authority in England and Wales has resolved under section 99 of the Environmental Protection Act 1990 that Schedule 4 to that Act is to apply in its area.

(2) If the day specified in the resolution for the coming into force of Schedule 4 in the authority's area falls on or after the commencement date, the resolution is to be of no effect.

(3) If Schedule 4 applies in the authority's area immediately before the commencement date, the Schedule is to continue to apply in the authority's area on and after the commencement date as it applied before that date.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) But Schedule 4 shall not so apply in relation to any shopping or luggage trolley seized by the authority on or after the relevant day.

(5) For the purposes of subsection (4) the relevant day is the earlier of—

(a) the third anniversary of the commencement date;

(b) if the authority resolves under section 99 of the Environmental Protection Act 1990 (c. 43) that Schedule 4 (as amended by section 99 of this Act) is to apply in its area, the day specified in the resolution as the day on which the Schedule (as so amended) comes into force in its area.

(6) So long as Schedule 4 continues to apply as described in subsection (3), the reference in section 99(4) of the Environmental Protection Act 1990 to Schedule 4 is to be treated as including a reference to Schedule 4 as it so applies.

(7) If the authority resolves under section 99 that Schedule 4 (as amended by section 99 of this Act) is to apply in its area, the authority may not in giving effect to paragraph 4(1) of Schedule 4 (as so amended) take into account charges payable in relation to shopping or luggage trolleys seized before the Schedule (as so amended) comes into force in its area.

(8) Nothing in this section prevents the authority from bringing to an end the application of Schedule 4 in its area.

(9) In this section—

"the commencement date" is the day on which section 99 of this Act comes into force;

"local authority" has the same meaning as in section 99 of the Environmental Protection Act 1990;

"luggage trolley" and "shopping trolley" have the same meaning as in Schedule 4 to that Act.

Commencement Information

I155 S. 100 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I156 S. 100 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(s)**

Statutory nuisances

101 Statutory nuisance: insects

(1) Section 79 of the Environmental Protection Act 1990 (statutory nuisances and inspections) is amended as follows.

(2) In subsection (1) (matters constituting statutory nuisances) after paragraph (f) insert—

"(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;".

(3) After subsection (5) insert—

"(5A) Subsection (1)(fa) does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only."

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In subsection (7) at the appropriate place insert—

""appropriate person" means—
(a) in relation to England, the Secretary of State;
(b) in relation to Wales, the National Assembly for Wales;".

(5) After subsection (7B) (as inserted by section 102(6)) insert—

"(7C) In this Part "relevant industrial, trade or business premises" means premises that are industrial, trade or business premises as defined in subsection (7), but excluding—
(a) land used as arable, grazing, meadow or pasture land,
(b) land used as osier land, reed beds or woodland,
(c) land used for market gardens, nursery grounds or orchards,
(d) land forming part of an agricultural unit, not being land falling within any of paragraphs (a) to (c), where the land is of a description prescribed by regulations made by the appropriate person, and
(e) land included in a site of special scientific interest (as defined in section 52(1) of the Wildlife and Countryside Act 1981),

and excluding land covered by, and the waters of, any river or watercourse, that is neither a sewer nor a drain, or any lake or pond.

(7D) For the purposes of subsection (7C)—

"agricultural" has the same meaning as in section 109 of the Agriculture Act 1947;

"agricultural unit" means land which is occupied as a unit for agricultural purposes;

"drain" has the same meaning as in the Water Resources Act 1991;

"lake or pond" has the same meaning as in section 104 of that Act;

"sewer" has the same meaning as in that Act."

Commencement Information

I157 S. 101 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**
I158 S. 101 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**
I159 S. 101 in force at 31.1.2007 (being the date on which S.I. 2007/117 came into force) for W. by S.I. 2006/2797, **art. 6(a)** (as amended by S.I. 2007/120, art. 3(c)(d))

102 Statutory nuisance: lighting

(1) Section 79 of the Environmental Protection Act 1990 (c. 43) is amended as follows.

(2) In subsection (1) (matters constituting statutory nuisances) after paragraph (fa) (as inserted by section 101 (2)) insert—

"(fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;".

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In subsection (2) (exception from subsection (1)(b) and (g) for premises occupied for defence purposes) after "Subsection (1)(b)" insert " , (fb) ".

(4) After subsection (5A) (as inserted by section 101 (3)) insert—

"(5B) Subsection (1)(fb) does not apply to artificial light emitted from—

(a) an airport;
(b) harbour premises;
(c) railway premises, not being relevant separate railway premises;
(d) tramway premises;
(e) a bus station and any associated facilities;
(f) a public service vehicle operating centre;
(g) a goods vehicle operating centre;
(h) a lighthouse;
(i) a prison."

(5) In subsection (7) (definitions) at the appropriate place insert—

""airport" has the meaning given by section 95 of the Transport Act 2000;";

""associated facilities", in relation to a bus station, has the meaning given by section 83 of the Transport Act 1985;";

""bus station" has the meaning given by section 83 of the Transport Act 1985;";

""goods vehicle operating centre", in relation to vehicles used under an operator's licence, means a place which is specified in the licence as an operating centre for those vehicles, and for the purposes of this definition "operating centre" and "operator's licence" have the same meaning as in the Goods Vehicles (Licensing of Operators) Act 1995;";

""harbour premises" means premises which form part of a harbour area and which are occupied wholly or mainly for the purposes of harbour operations, and for the purposes of this definition "harbour area" and "harbour operations" have the same meaning as in Part 3 of the Aviation and Maritime Security Act 1990;";

""lighthouse" has the same meaning as in Part 8 of the Merchant Shipping Act 1995;";

""prison" includes a young offender institution;";

""public service vehicle operating centre", in relation to public service vehicles used under a PSV operator's licence, means a place which is an operating centre of those vehicles, and for the purposes of this definition "operating centre", "PSV operator's licence" and "public service vehicle" have the same meaning as in the Public Passenger Vehicles Act 1981;";

""railway premises" means any premises which fall within the definition of "light maintenance depot", "network", "station" or "track" in section 83 of the Railways Act 1993;";

""relevant separate railway premises" has the meaning given by subsection (7A);";

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

""tramway premises" means any premises which, in relation to a tramway, are the equivalent of the premises which, in relation to a railway, fall within the definition of "light maintenance depot", "network", "station" or "track" in section 83 of the Railways Act 1993;".

(6) After subsection (7) insert—

"(7A) Railway premises are relevant separate railway premises if—

(a) they are situated within—

(i) premises used as a museum or other place of cultural, scientific or historical interest, or

(ii) premises used for the purposes of a funfair or other entertainment, recreation or amusement, and

(b) they are not associated with any other railway premises.

(7B) For the purposes of subsection (7A)—

(a) a network situated as described in subsection (7A)(a) is associated with other railway premises if it is connected to another network (not being a network situated as described in subsection (7A)(a));

(b) track that is situated as described in subsection (7A)(a) but is not part of a network is associated with other railway premises if it is connected to track that forms part of a network (not being a network situated as described in subsection (7A)(a));

(c) a station or light maintenance depot situated as described in subsection (7A)(a) is associated with other railway premises if it is used in connection with the provision of railway services other than services provided wholly within the premises where it is situated.

In this subsection "light maintenance depot", "network", "railway services", "station" and "track" have the same meaning as in Part 1 of the Railways Act 1993."

(7) In subsection (8) (port health authority to have functions of local authority under Part 3 of that Act, except those relating to statutory nuisance within section 79(1)(g) or (ga)) after "paragraph" insert " (fb), ".

(8) In subsection (10) (consent of Secretary of State or National Assembly for Wales required before taking proceedings for certain statutory nuisances) after "paragraph (b), (d), (e)" insert " , (fb) ".

Commencement Information

I160 S. 102 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I161 S. 102 in force at 31.1.2007 (being the date on which S.I. 2007/120, art. 2, Sch. came into force) for W. by S.I. 2006/2797, **art. 7(a)** (as amended by S.I. 2007/120, art. 3(e)-(h))

103 Sections 101 and 102: supplementary

(1) The Environmental Protection Act 1990 (c. 43) is amended as follows.

(2) In section 80(8) (summary proceedings for statutory nuisances: defence of best practicable means not available in certain cases)—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in paragraph (a) after "paragraph (a), (d), (e), (f)" insert " , (fa) ", and

(b) after paragraph (a) insert—

"(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;".

(3) After section 80(8) insert—

"(8A) For the purposes of subsection (8)(aza) a relevant sports facility is an area, with or without structures, that is used when participating in a relevant sport, but does not include such an area comprised in domestic premises.

(8B) For the purposes of subsection (8A) "relevant sport" means a sport that is designated for those purposes by order made by the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales.

A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.

(8C) In subsection (8A) "domestic premises" means—

(a) premises used wholly or mainly as a private dwelling, or

(b) land or other premises belonging to, or enjoyed with, premises so used."

(4) In section 82(10) (summary proceedings by aggrieved person: defence of best practicable means not available in certain cases)—

(a) in paragraph (a) after "paragraph (a), (d), (e), (f)" insert " , (fa) ", and

(b) after paragraph (a) insert—

"(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;".

(5) After section 82(10) insert—

"(10A) For the purposes of subsection (10)(aza) "relevant sports facility" has the same meaning as it has for the purposes of section 80(8)(aza)."

Commencement Information

I162 S. 103 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I163 S. 103 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

I164 S. 103(1)(2)(b)(3)(4)(b)(5) in force at 31.1.2007 (being the date on which S.I. 2007/120, art. 2, Sch. came into force) for W. in so far as not already in force by S.I. 2006/2797, **art. 7(b)** (as amended by S.I. 2007/120, art. 3(e)-(h))

I165 S. 103(2)(a)(4)(a) in force at 31.1.2007 (being the date on which S.I. 2007/117 came into force) for W. in so far as not already in force by S.I. 2006/2797, **art. 6(b)** (as amended by S.I. 2007/120, art. 3(c)(d))

Pollution

104 Contaminated land: appeals against remediation notices

(1) Section 78L of the Environmental Protection Act 1990 (c. 43) (appeals against remediation notices) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

"(a) if it was served by a local authority in England, or served by the Environment Agency in relation to land in England, to the Secretary of State;

(b) if it was served by a local authority in Wales, or served by the Environment Agency in relation to land in Wales, to the National Assembly for Wales;".

(3) In that subsection, for the words from "means" to the end substitute " the Secretary of State or the National Assembly for Wales, as the case may be ".

(4) In subsection (4)—

(a) omit paragraph (b);

(b) in paragraph (c), omit the words from "or on" to the end.

(5) In subsection (6), omit the words "so far as relating to appeals to the Secretary of State".

(6) This section does not have effect in relation to a remediation notice served under Part 2A of the Environmental Protection Act 1990 before the commencement of this section.

(7) The power of the Secretary of State and National Assembly for Wales under section 114 of the Environment Act 1995 (c. 25) in relation to appeals under section 78L of the Environmental Protection Act 1990 extends to appeals under that section as amended by this section.

Commencement Information

I166 S. 104 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**

I167 S. 104 in force at 4.8.2006 for specified purposes for E. by S.I. 2006/1361, **art. 2**

I168 S. 104 in force at 10.12.2006 (being the day on which S.I. 2006/2989 came into force) for W. in so far as not already in force by S.I. 2006/768, **art. 4(a)**

105 Offences relating to pollution etc: penalties on conviction

(1) In paragraph 25 of Schedule 1 to the Pollution Prevention and Control Act 1999 (c. 24) (purposes for which regulations may be made under section 2: offences), in sub-paragraph (2)(a)—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in paragraph (i) for "six months" substitute " 12 months ";
(b) in paragraph (ii) for "£20,000" substitute " £50,000 ".

(2) Subsection (1) does not have effect in relation to regulations under section 2 of the Pollution Prevention and Control Act 1999 so far as relating to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44).

PART 10

GENERAL

106 Minor and consequential amendments

Schedule 4 (minor and consequential amendments) has effect.

107 Repeals

Schedule 5 (repeals) has effect.

108 Commencement

(1) The provisions specified in subsection (2) come into force—
(a) in relation to England, in accordance with provision made by order by the Secretary of State; and
(b) in relation to Wales, in accordance with provision so made by the National Assembly for Wales.

(2) The provisions referred to in subsection (1) are—
(a) section 2;
(b) sections 6 to 13 and 15 to 17 and, in Part 1 of Schedule 5, the repeals to the Refuse Disposal (Amenity) Act 1978 (c. 3) and the Road Traffic Regulation Act 1984 (c. 27);
(c) sections 19 to 25, paragraphs 5 to 9 of Schedule 4 and, in Part 2 of Schedule 5, the repeals to the Environmental Protection Act 1990 (c. 43);
(d) sections 28 to 31, paragraphs 14 to 19 of Schedule 4 and, in Part 3 of Schedule 5, the repeals to the Anti-Social Behaviour Act 2003 (c. 38);
(e) section 34 and, in Part 3 of Schedule 5, the repeal to the Town and Country Planning Act 1990 (c. 8);
(f) sections 37 and 38 and, in Part 4 of Schedule 5, the repeal of section 6 of the Control of Pollution (Amendment) Act 1989 (c. 14);
(g) sections 45 and 46;
(h) section 47, paragraph 4 of Schedule 4 and, in Part 4 of Schedule 5, the repeals to the Environmental Protection Act 1990, other than the repeal to section 33 of that Act;
(i) section 48;
(j) section 50;
(k) section 52;
(l) section 53;
(m) Chapter 1 of Part 6 above and Part 5 of Schedule 5;

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(n) Part 7 above except sections 83(2) and 85, and in Part 7 of Schedule 5, the repeals to the Noise and Statutory Nuisance Act 1993 (c. 40) and the Noise Act 1996 (c. 37);
(o) sections 96 to 98 and Part 9 of Schedule 5;
(p) sections 99 and 100;
(q) sections 101 to 103;
(r) section 104 and Part 10 of Schedule 5.

(3) These provisions come into force in accordance with provision made by order by the Secretary of State—
(a) section 1;
(b) section 32;
(c) sections 42 to 44;
(d) section 49 and paragraph 3 of Schedule 4;
(e) section 68 and Part 6 of Schedule 5;
(f) Part 8 above and Part 8 of Schedule 5;
(g) in Part 1 of Schedule 5, the repeal to section 3 of the London Local Authorities Act 2004 (c. i).
(h) in Part 2 of Schedule 5, the repeals to the London Local Authorities Act 1994 (c. xii) and the City of Newcastle upon Tyne Act 2000 (c. viii);
(i) in Part 3 of Schedule 5, the repeal to the London Local Authorities Act 1995 (c. x);
(j) in Part 7 of Schedule 5, the repeal to the London Local Authorities Act 1991 (c. xiii).

(4) These provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
(a) sections 3 to 5 and, in Part 1 of Schedule 5, the repeals to the Greater London Council (General Powers) Act 1982 (c i) and section 11 of the London Local Authorities Act 2004 (c. i);
(b) section 18;
(c) section 27;
(d) section 33 and, in Part 3 of Schedule 5, the repeal to the London Local Authorities Act 2004 (c. i);
(e) sections 35 and 36, and in Part 4 of Schedule 5, the repeals to sections 1 and 2 of the Control of Pollution (Amendment) Act 1989 (c. 14);
(f) section 40 and, in Part 4 of Schedule 5, the repeal to section 33 of the Environmental Protection Act 1990 (c. 43);
(g) section 41;
(h) section 54;
(i) section 83(2);
(j) section 105.

(5) An order under subsection (1) or (3) may make—
(a) transitional, consequential, incidental and supplemental provision, or savings;
(b) different provision for different purposes.

(6) Where a provision of this Act comes into force otherwise than under subsection (1) or (3), the Secretary of State may by order make any transitional, consequential,

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

incidental or supplemental provision, or savings, that he considers necessary or expedient in relation to the coming into force of that provision.

(7) An order under subsection (6) may make different provision for different purposes.

(8) An order under this section is to be made by statutory instrument.

109 Money

There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State under this Act;

(b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

110 Extent

(1) This Act extends to England and Wales only, subject as follows.

(2) An amendment in Schedule 2 has the same extent as the provision amended.

(3) The repeal in Part 8 of Schedule 5 has the same extent as the provision repealed.

111 Short title

This Act may be cited as the Clean Neighbourhoods and Environment Act 2005.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 84

APPLICATION OF THE NOISE ACT 1996 TO LICENSED PREMISES ETC

1 The Noise Act 1996 (c. 37) is amended as follows.

Commencement Information
I169 Sch. 1 para. 1 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

2 In the heading to section 2, omit "from a dwelling".

Commencement Information
I170 Sch. 1 para. 2 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**
I171 Sch. 1 para. 2 in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(p)**

3 (1) Section 2 (investigations of complaints of noise) is amended as follows.

(2) In subsection (2), after "emitted from" insert " (a) " and at the end insert ", or

(b) any premises in respect of which a premises licence or a temporary event notice has effect (referred to in this group of sections as "the offending premises")".

(3) In subsection (4)(a), after "the offending dwelling" insert " or the offending premises ".

(4) In subsection (7)—

(a) after "the offending dwelling is" insert " , or the offending premises are, ";

(b) after "if the offending dwelling" insert " or the offending premises ".

(5) After subsection (7) insert—

"(7A) In this group of sections—

"premises licence" has the same meaning as in the Licensing Act 2003 (c. 17);

"temporary event notice" has the same meaning as in the Licensing Act 2003 (and is to be treated as having effect in accordance with section 171(6) of that Act)."

Commencement Information
I172 Sch. 1 para. 3 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

4 (1) Section 3 (warning notices) is amended as follows.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1)—

(a) in paragraph (a)(i), after "offending dwelling" insert " or the offending premises ";

(b) for paragraph (b) substitute—

"(b) give warning—

(i) in a case where the complaint is in respect of a dwelling, that any person who is responsible for noise which is emitted from the offending dwelling in the period specified in the notice and which exceeds the permitted level, as measured from within the complainant's dwelling, may be guilty of an offence;

(ii) in a case where the complaint is in respect of other premises, that the responsible person in relation to the offending premises may be guilty of an offence if noise which exceeds the permitted level, as measured from within the complainant's dwelling, is emitted from the premises in the period specified in the notice."

(3) In subsection (3), at the beginning insert " In a case where the complaint is in respect of a dwelling, ".

(4) After subsection (3) insert—

"(3A) In a case where the complaint is in respect of other premises, a warning notice must be served by delivering it to the person who appears to the officer of the authority to be the responsible person in relation to the offending premises at the time the notice is delivered."

(5) After subsection (5) insert—

"(6) For the purposes of this group of sections, the responsible person in relation to premises at a particular time is—

(a) where a premises licence has effect in respect of the premises—

(i) the person who holds the premises licence if he is present at the premises at that time,

(ii) where that person is not present at the premises at that time, the designated premises supervisor under the licence if he is present at the premises at that time, or

(iii) where neither of the persons mentioned in sub-paragraphs (i) and (ii) is present at the premises at that time, any other person present at the premises at that time who is in charge of the premises;

(b) where a temporary event notice has effect in respect of the premises—

(i) the premises user in relation to that notice if he is present at the premises at that time, or

(ii) where the premises user is not present at the premises at that time, any other person present at the premises at that time who is in charge of the premises."

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I173 Sch. 1 para. 4 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

5 In the heading to section 4, after "where noise" insert " from a dwelling ".

Commencement Information
I174 Sch. 1 para. 5 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

6 After section 4 insert—

"**4A Offence where noise from other premises exceeds permitted level after service of notice**

(1) If—

(a) a warning notice has been served under section 3 in respect of noise emitted from premises,

(b) noise is emitted from the premises in the period specified in the notice, and

(c) the noise exceeds the permitted level, as measured from within the complainant's dwelling,

the responsible person in relation to the offending premises at the time at which the noise referred to in paragraph (c) is emitted is guilty of an offence.

(2) 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."

Commencement Information
I175 Sch. 1 para. 6 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

7 (1) Section 5 (permitted level of noise) is amended as follows.

(2) In subsection (1)—

(a) for "the Secretary of State" substitute " the appropriate person ";

(b) after "from any dwelling" insert " or other premises ".

(3) In subsection (4), for "The Secretary of State" substitute " The appropriate person ".

Commencement Information
I176 Sch. 1 para. 7(1)(2)(b) in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**
I177 Sch. 1 para. 7(2)(a)(3) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**
I178 Sch. 1 para. 7(2)(a)(3) in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(p)**

8 (1) Section 6 (approval of measuring devices) is amended as follows.

(2) In subsection (1), for "the Secretary of State" substitute " the appropriate person ".

(3) In subsection (3), after "section 4" insert " or 4A ".

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I179 Sch. 1 para. 8(1)(3) in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**
I180 Sch. 1 para. 8(2) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**
I181 Sch. 1 para. 8(2) in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(p)**

9 (1) Section 7 (evidence) is amended as follows.

(2) In subsection (1), after "section 4" insert " or 4A ".

(3) After subsection (3) insert—

"(3A) In proceedings for an offence under section 4A, evidence that noise, or noise of any kind, measured by a device at any time was noise emitted from any other premises may be given by the production of a document—

(a) signed by an officer of the local authority, and

(b) stating that he had identified those premises as the source at that time of the noise or, as the case may be, noise of that kind."

(4) In subsection (4), for "or (3)(a)" substitute " , (3)(a) or (3A)(a) ".

Commencement Information
I182 Sch. 1 para. 9 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

10 (1) Section 8 (fixed penalty notices) is amended as follows.

(2) In subsection (1), after "section 4" insert " or 4A ".

(3) In subsection (2)(b), after "the offending dwelling" insert " or the offending premises (as the case may be) ".

Commencement Information
I183 Sch. 1 para. 10 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

11 (1) Section 8A (amount of fixed penalty), as inserted by section 82 of this Act, is amended as follows.

(2) In subsection (2), at the beginning insert " In the case of an offence under section 4 ".

(3) After subsection (2) insert—

"(2A) In the case of an offence under section 4A the amount of the fixed penalty is £500."

(4) In subsection (3), after "the fixed penalty" insert " payable in the case of an offence under section 4 ".

(5) In subsection (6), after "(2)(b)" insert " or (2A) ".

Commencement Information
I184 Sch. 1 para. 11 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

12 (1) Section 9 (section 8: supplementary) is amended as follows.

(2) In subsection (1), for "the Secretary of State" substitute " the appropriate person ".

(3) After subsection (2) insert—

"(2A) If a fixed penalty notice is given to a person in respect of noise emitted from other premises in any period in a warning notice—

(a) no further fixed penalty notice may be given to that person in respect of noise emitted from the premises during that period, but

(b) that person may be convicted of a further offence under section 4A in respect of noise emitted from the premises after the fixed penalty notice is given and before the end of that period."

(4) In subsections (4A)(b) and (4C), for each occurrence of "the Secretary of State" substitute " the appropriate person ".

(5) In subsection (4D), for "The Secretary of State" substitute " The appropriate person ".

(6) In subsections (4E) and (4F), for each occurrence of "the Secretary of State" substitute " the appropriate person ".

(7) In subsection (5), after "section 4" insert " or 4A ".

Commencement Information

I185 Sch. 1 para. 12(1)(3)(7) in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**
I186 Sch. 1 para. 12(2)(5)(6) in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**
I187 Sch. 1 para. 12(2)(5)(6) in force at 27.10.2006 for W. by S.I. 2006/2797, **art. 2(p)**
I188 Sch. 1 para. 12(4) in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**

13 (1) Section 10 (powers of entry and seizure etc) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "a dwelling" insert " or other premises ";

(b) in paragraph (b), after "the dwelling" insert " or other premises ".

(3) In subsection (2), after "the dwelling" insert " or other premises ".

(4) In subsection (4)—

(a) in paragraph (a), after "a dwelling" insert " or other premises ";

(b) in paragraph (b), after "the dwelling" insert " or other premises ";

(c) in paragraph (c), after "the dwelling" insert " or other premises ";

(d) after "to enter the" insert " dwelling or other ".

(5) In subsection (5)—

(a) after "enters any" insert " dwelling or other ";

(b) for the words from "the premises are unoccupied" to the end substitute " the dwelling is, or the other premises are, unoccupied, must leave it or them as effectively secured against trespassers as he found it or them. "

Commencement Information

I189 Sch. 1 para. 13 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

14 In the Schedule (powers in relation to seized equipment) in paragraph 1(a)(i), after "section 4" insert " or q4A ".

Commencement Information
I190 Sch. 1 para. 14 in force at 1.10.2006 for E. by S.I. 2006/2006, **art. 2**

SCHEDULE 2

Section 87

COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT

Status

1 (1) The Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

(2) The property of the Commission is not to be regarded as the property of, or property held on behalf of, the Crown.

(3) Service as a member of the Commission is not service in the civil service of the Crown.

Commencement Information
I191 Sch. 2 para. 1 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Membership

2 (1) The Secretary of State must—
(a) appoint the members of the Commission;
(b) appoint one of the members as chairman.

(2) Subject to the other provisions of this Schedule, a person holds and vacates office as a member of the Commission or as chairman in accordance with the terms of his appointment.

(3) The Commission is to have a minimum of eight and a maximum of sixteen members.

(4) The Secretary of State may by order vary either or both of the numbers specified in sub-paragraph (3).

(5) The validity of proceedings of the Commission is not affected by—
(a) the number of members being less than the minimum as specified for the time being in sub-paragraph (3);
(b) a defect in the appointment of a person as a member of the Commission or as chairman.

Commencement Information
I192 Sch. 2 para. 2 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Tenure

3 (1) The Secretary of State may not appoint a person to hold office as a member of the Commission or as chairman for a term of more than four years.

(2) A person may at any time resign as a member of the Commission or as chairman by giving notice in writing to the Secretary of State.

(3) The Secretary of State may remove a person from office as a member of the Commission or as chairman on the grounds that—

(a) a bankruptcy order has been made against the person, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or

(b) he is, in the opinion of the Secretary of State, unable, unwilling or unfit to discharge the functions of his office.

(4) A person who ceases to be a member of the Commission or chairman may be re-appointed.

Commencement Information
I193 Sch. 2 para. 3 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Staff etc

4 (1) The Commission may appoint staff, agents and advisers.

(2) Service as a member of staff of the Commission is not service in the civil service of the Crown.

Commencement Information
I194 Sch. 2 para. 4 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Committees

5 (1) The Commission may establish one or more committees.

(2) A committee—

(a) must include at least one member of the Commission, and

(b) may also include other persons (who may include members of staff of the Commission).

Commencement Information
I195 Sch. 2 para. 5 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Remuneration etc

6 (1) The Commission may pay to or in respect of a member of the Commission or the chairman such sums as the Secretary of State may determine by way of, or in respect of—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) remuneration;
(b) pensions.

(2) The Commission may also pay to or in respect of a member of the Commission or the chairman sums by way of, or in respect of—
(a) allowances;
(b) expenses.

(3) If the Secretary of State thinks that there are special circumstances that make it right for a person ceasing to hold office as a member of the Commission or as chairman to receive compensation, the Commission may pay to the person such compensation as the Secretary of State may determine.

(4) The Commission may pay to or in respect of a member of staff sums by way of or in respect of remuneration, subject to any conditions imposed by the Secretary of State.

(5) The Commission may also pay to or in respect of a member or former member of staff sums by way of, or in respect of—
(a) allowances;
(b) expenses;
(c) pensions;
(d) gratuities;
(e) compensation for loss of employment.

(6) The Commission may pay to or in respect of a person who is a member of a committee established under paragraph 5 (but who is not a member of the Commission or a member of staff) sums by way of, or in respect of—
(a) allowances;
(b) expenses.

Commencement Information
I196 Sch. 2 para. 6 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Delegation

7 The Commission may delegate any of its functions to—
(a) a member of the Commission,
(b) a member of its staff,
(c) a committee established under paragraph 5, or
(d) any other person.

Commencement Information
I197 Sch. 2 para. 7 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Proceedings

8 (1) The Commission may, subject to the other provisions of this Schedule, regulate its own proceedings and those of its committees.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In particular, the Commission may specify a quorum for meetings.

Commencement Information
I198 Sch. 2 para. 8 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Accounts

9 (1) The Commission must—
(a) keep proper accounting records, and
(b) prepare a statement of accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Secretary of State.

(2) The statement must comply with any directions given by the Secretary of State, with the consent of the Treasury, as to—
(a) the information to be contained in the statement;
(b) the form which the statement is to take;
(c) the manner in which the information is to be presented;
(d) the methods and principles according to which the statement is to be prepared.

(3) The Commission must send a copy of a statement under sub-paragraph (1)(b) to—
(a) the Secretary of State, and
(b) the Comptroller and Auditor General.

(4) A copy of a statement must be sent under sub-paragraph (3) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may, with the consent of the Treasury, direct.

(5) The Comptroller and Auditor General must—
(a) examine, certify and report on a statement received under this paragraph, and
(b) lay a copy of the statement and his report before Parliament.

(6) Directions given by the Secretary of State under sub-paragraph (2) may, with the consent of the Treasury, be amended or revoked by him.

Commencement Information
I199 Sch. 2 para. 9 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Annual report

10 (1) The Commission must send to the Secretary of State a report on the discharge of its functions during each financial year.

(2) A report must be sent under sub-paragraph (1) within such period, beginning with the end of the financial year to which the report relates, as the Secretary of State may, with the consent of the Treasury, direct.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The Secretary of State must lay before Parliament a copy of each report received by him under this paragraph.

Commencement Information
I200 Sch. 2 para. 10 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Instruments and authentication

11 (1) The fixing of the seal of the Commission must be authenticated by the signature of the chairman or of another person authorised by the Commission to act for that purpose.

(2) A document purporting to be duly executed under the seal of the Commission, or to be signed on the Commission's behalf, is to be received in evidence and, unless the contrary is proved, is to be treated as having been so executed or signed.

Commencement Information
I201 Sch. 2 para. 11 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Records

12 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert— " Commission for Architecture and the Built Environment. "

Commencement Information
I202 Sch. 2 para. 12 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Disqualification

13 In the House of Commons Disqualification Act 1975 (c. 24), in Part 2 of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert— " Commission for Architecture and the Built Environment. "

Commencement Information
I203 Sch. 2 para. 13 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Transitional provisions

14 (1) A person who immediately before the appointed day was a member of the old Commission is to be treated—

(a) as having been appointed as a member of the Commission under paragraph 2;

(b) for the purposes of paragraph 3(1), as having been so appointed on the date on which he was appointed as a member of the old Commission.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A person who immediately before the appointed day was the chairman of the old Commission is to be treated—
  (a) as having been appointed as chairman of the Commission under paragraph 2;
  (b) for the purposes of paragraph 3(1), as having been so appointed on the date on which he was appointed chairman of the old Commission.

(3) A committee of the old Commission which was in existence immediately before the appointed day is to be treated as having been established as a committee of the Commission under paragraph 5.

Commencement Information
I204 Sch. 2 para. 14 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Interpretation

15 (1) The appointed day is the day on which section 92 comes into force.

(2) The financial year of the Commission is the period of 12 months ending on 31 March.

(3) But the first financial year of the Commission is the period—
  (a) starting on the appointed day, and
  (b) ending on the following 31 March.

Commencement Information
I205 Sch. 2 para. 15 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

SCHEDULE 3

Section 92

TRANSFER OF STAFF, PROPERTY ETC FROM THE OLD COMMISSION

Transfer of staff

1 For the purposes of TUPE—
  (a) the functions conferred on the Commission by this Act are to be treated as transferred to the Commission from the old Commission on the appointed day;
  (b) that transfer of functions is to be treated as a transfer of an undertaking;
  (c) each person who was, immediately before the appointed day, employed by the old Commission under a contract of employment is to be treated as employed in the undertaking immediately before the appointed day.

Commencement Information
I206 Sch. 3 para. 1 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

2 In paragraph 1 "TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794).

Commencement Information
I207 Sch. 3 para. 2 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Transfer of property, rights and liabilities

3 All property, rights and liabilities to which the old Commission was entitled or subject immediately before the appointed day become on that day property, rights and liabilities of the Commission.

Commencement Information
I208 Sch. 3 para. 3 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

4 The reference in paragraph 3 to rights and liabilities does not include rights and liabilities under a contract of employment transferred by virtue of paragraph 1.

Commencement Information
I209 Sch. 3 para. 4 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

5 Paragraph 3 has effect in relation to property, rights and liabilities—
(a) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer by the old Commission;
(b) without any instrument or other formality being required.

Commencement Information
I210 Sch. 3 para. 5 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

6 Anything done by or in relation to the old Commission which has effect immediately before the appointed day is, so far as is necessary for continuing its effect after that day, to have effect as if done by or in relation to the Commission.

Commencement Information
I211 Sch. 3 para. 6 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

7 Anything (including legal proceedings) which immediately before the appointed day is in the process of being done by or in relation to the old Commission may be continued by or in relation to the Commission.

Commencement Information
I212 Sch. 3 para. 7 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

8 So far as is necessary or appropriate in consequence of paragraph 3, on and after the appointed day a reference to the old Commission in an enactment, instrument or other document is to be treated as a reference to the Commission.

Commencement Information
I213 Sch. 3 para. 8 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

The appointed day

9 The appointed day is the day on which section 92 comes into force.

Commencement Information
I214 Sch. 3 para. 9 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

SCHEDULE 4

Section 106

MINOR AND CONSEQUENTIAL AMENDMENTS

Highways Act 1980 (c. 66)

1 In section 325 of the Highways Act 1980, in subsection (2)(a), after "subsection (2A) below" insert " or regulations made by the National Assembly for Wales under Part 8A ".

Environmental Protection Act 1990 (c. 43)

2 The Environmental Protection Act 1990 is amended as follows.

3 (1) Section 52 is amended as follows.

(2) After subsection (4) insert—

"(4A) The Secretary of State may by regulations impose on waste disposal authorities in England a duty to make payments corresponding to the payments which are authorised by subsection (3)(a) above to such persons in such circumstances and in respect of such descriptions or quantities of waste as are specified in the regulations."

(3) In subsection (5)—

(a) after "authorities" insert " in Wales "; and

(b) for "subsection (3)" substitute " subsection (3)(b) ".

(4) In subsection (6), for "subsections (1), (3)" substitute " subsections (1)(b), (3)(b) ".

(5) In subsection (7), for "subsections (2) and (4)" substitute " subsections (2)(b) and (4)(b) ".

(6) In subsection (8), for "subsections (1), (2), (3), (4)" substitute " subsections (1)(b), (2)(b), (3)(b), (4)(b) ".

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I215 Sch. 4 para. 3(1)-(4) in force at 6.4.2006 by S.I. 2006/656, **art. 3(e)(i)**

I216 Sch. 4 para. 3(6) in force at 6.4.2006 for specified purposes by S.I. 2006/656, **art. 3(e)(ii)**

4 In section 60(1)—

(a) in paragraph (a), for the words from "a waste disposal contractor" to the end substitute " or under arrangements made with a waste disposal authority or by any other local authority or person ";

(b) in paragraph (b), for the words from "a waste disposal contractor" to the end substitute " or under arrangements made with a waste disposal authority, by a parish or community council or by a holder of a waste management licence; or ".

Commencement Information

I217 Sch. 4 para. 4 in force at 18.10.2005 for E. by S.I. 2005/2896, **art. 3(i)**

I218 Sch. 4 para. 4 in force at 16.3.2006 for W. by S.I. 2006/768, **art. 2(c)**

VALID FROM 06/03/2007

5 In section 89(1), at the end of paragraph (e) insert " and ".

VALID FROM 06/03/2007

6 In section 91(1), at the end of paragraph (e) insert " or ".

VALID FROM 06/03/2007

7 In section 92(1), at the end of paragraph (b) insert " or ".

VALID FROM 06/03/2007

8 In section 95(1), after paragraph (b) insert "and

(c) all orders made by the authority under paragraph 2(1) of Schedule 3A."

VALID FROM 06/03/2007

9 In section 96(1)(b), after "section 92(9)" insert " or 92C(3) ".

10 (1) Section 161 is amended as follows.

(2) In subsection (1) after "Secretary of State" insert " , National Assembly for Wales ".

(3) After subsection (2), insert—

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales."

(4) In subsection (4), at the end insert "or

(c) which is made solely by the National Assembly for Wales."

Control of Pollution (Amendment) Act 1989 (c. 14)

11 (1) Section 8 of the Control of Pollution (Amendment) Act 1989 is amended as follows.

(2) In subsection (1), after "regulations" insert " or orders ".

(3) After that subsection insert—

"(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."

(4) In subsection (2)—

(a) after "Regulations" insert " or orders ";

(b) in paragraph (a) for "Secretary of State" substitute " person making the regulations or order ".

Anti-social Behaviour Act 2003 (c. 38)

12 The Anti-social Behaviour Act 2003 is amended as follows.

13 In section 41(3), in the definition of "temporary event notice" for "section 170(6)" substitute " section 171(6) ".

VALID FROM 06/03/2007

14 In section 45, for subsection (1) substitute—

"(1) The fixed penalty payable in pursuance of a notice under section 43(1) is payable to the local authority whose authorised officer gave the notice."

VALID FROM 06/03/2007

15 In section 47(1), after "sections 43" insert " to 43B ".

VALID FROM 06/03/2007

16 In the cross-heading preceding section 48, after "graffiti" insert " and fly-posting ".

VALID FROM 06/03/2007

17 (1) Section 48 is amended as follows.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In the heading, for "Graffiti removal notices" substitute " Defacement removal notices ".

(3) In subsections (2) and (6), for "graffiti removal notice" substitute " defacement removal notice ".

(4) In subsection (7), for "graffiti removal notices" substitute " defacement removal notices ".

(5) In subsection (8)(a), for "graffiti removal notice" substitute " defacement removal notice ".

(6) In subsection (12), for ""graffiti removal notice"" substitute " "defacement removal notice" ".

(7) In that subsection, in the definition of "local authority", at the end insert " but not a parish or community council ".

VALID FROM 06/03/2007

18 In sections 49(1) and 51(1) and (3), for "graffiti removal notice" substitute " defacement removal notice ".

VALID FROM 06/03/2007

19 In the heading to section 52, for "graffiti removal notices" substitute " defacement removal notices ".

SCHEDULE 5

Section 107

REPEALS

PART 1

VEHICLES

Commencement Information

I219 Sch. 5 Pt. 1 in force at 18.10.2005 for specified purposes for E. by S.I. 2005/2896, **art. 3(j)**

I220 Sch. 5 Pt. 1 in force at 27.10.2006 for specified purposes for W. by S.I. 2006/2797, **art. 2(t)**

I221 Sch. 5 Pt. 1 is partly in force; Sch. 5 Pt. 1 in force for certain purposes at 7.6.2005, see s. 108(4)

Short title and chapter	*Extent of repeal*
Refuse Disposal (Amenity) Act 1978 (c. 3)	In section 3— (a) subsection (5);

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(b) in subsection (8), the words from ", other than" to "subsection (5) above,". In section 4— (a) in subsection (1), the words from "but not earlier" to the end; (b) subsection (2).
Greater London Council (General Powers) Act 1982 (c.i)	Section 5.
Road Traffic Regulation Act 1984 (c. 27)	Section 99(4). In section 101(3)— (a) in paragraph (a), the words from "and on which" to "at the time of its removal"; (b) the words from "but, in a case" to the end.
London Local Authorities Act 2004 (c. i)	Section 3. Section 11.

PART 2

LITTER AND REFUSE

Commencement Information

I222 Sch. 5 Pt. 2 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, art. 2(3), **Sch. 2** (with art. 3)

Short title and chapter	*Extent of repeal*
Environmental Protection Act 1990 (c. 43)	Section 86(12). Section 89(1)(g) and the preceding "and". Section 90. Section 91(1)(g) and the preceding "or". In section 92— (a) subsection (1)(d) and the preceding "or"; (b) subsection (3)(d). In section 94(3), the words from "but a specified area" to the end. Section 95(1)(a).
London Local Authorities Act 1994 (c. xii)	Section 4.
City of Newcastle upon Tyne Act 2000 (c. viii)	Sections 21 and 22.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 3

GRAFFITI AND OTHER DEFACEMENT

Commencement Information

I223 Sch. 5 Pt. 3 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

I224 Sch. 5 Pt. 3 is partly in force; Sch. 5 Pt. 3 in force for certain purposes at 7.6.2005, see s. 108(4)

Short title and chapter	*Extent of repeal*
Town and Country Planning Act 1990 (c. 8)	Section 324(3)(a).
London Local Authorities Act 1995 (c. x)	Section 10.
Anti-social Behaviour Act 2003 (c. 38)	Section 43(10) and (11).
London Local Authorities Act 2004 (c. i)	Section 25.

PART 4

WASTE

Commencement Information

I225 Sch. 5 Pt. 4 in force for certain purposes at 7.6.2005, see s. 108(4)

I226 Sch. 5 Pt. 4 in force at 18.10.2005 for specified purposes for E. by S.I. 2005/2896, **art. 3(k)** (with art. 6) (as amended by S.I. 2006/1002, art. 2)

I227 Sch. 5 Pt. 4 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 2(d)** (with art. 5) (as amended by S.I. 2006/2797, art. 11)

Short title and chapter	*Extent of repeal*
Control of Pollution (Amendment) Act 1989 (c. 14)	Section 1(4)(c) and the preceding "or". In section 2— (a) in subsection (2)(c), the words "free of charge"; (b) subsection (2)(d); (c) in subsection (2)(e), the words "free of charge"; (d) subsection (3)(b); (e) subsection (3A)(a). Section 6.
Environmental Protection Act 1990 (c. 43)	Section 30(5). Section 32. Section 33(7)(b). In section 48— (a) in subsection (4), the words "with a waste disposal contractor" and "for the contractor";

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(b) in subsection (6), the words “, subject to subsection (7) below,”; (c) subsection (7). In section 51— (a) in subsection (1), the words from “in either case” to the end; (b) subsection (4)(b) to (d); (c) subsections (5) and (6). In section 55(2)(a) and (b), the words “with waste disposal contractors for them”. In section 60(2)(a) and (b), the word “, contractor”. In section 77— (a) in subsection (1), the definitions of “existing disposal authority”, “existing disposal plan”, “relevant part of its undertaking” and “the vesting date”; (b) subsection (4); (c) subsections (6) to (9). Schedule 2.

PART 5

DOG CONTROLS

Commencement Information
I228 Sch. 5 Pt. 5 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2** (with art. 4)

Short title and chapter	*Extent of repeal*
Dogs (Fouling of Land) Act 1996 (c. 20)	The whole Act.
Police Reform Act 2002 (c. 30)	In Schedule 4, paragraph 1(2)(c). In Schedule 5, paragraph 1(2)(b).

VALID FROM 06/04/2008

PART 6

STRAY DOGS

Short title and chapter	*Extent of repeal*
Dogs Act 1906 (c. 32)	Sections 3 and 4.
Dogs (Amendment) Act 1928 (c. 21)	Section 2.
Local Government Act 1988 (c. 9)	Section 39.

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Environmental Protection Act 1990 (c. 43)	In the heading to section 150, the words "police or". In section 150— (a) in subsection (1), in paragraph (b), sub-paragraph (ii) and the preceding "or"; (b) in that subsection, the words from "or the police officer" to "as the case may be,". In Schedule 15, paragraph 3.

PART 7

NOISE

Commencement Information
I229 Sch. 5 Pt. 7 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), **Sch. 2**

Short title and chapter	*Extent of repeal*
London Local Authorities Act 1991 (c. xiii)	Section 23.
Noise and Statutory Nuisance Act 1993 (c. 40)	Section 9. Schedule 3.
Noise Act 1996 (c. 37)	In the heading to section 2, the words "from a dwelling". Section 8(8). Section 9(3). In section 9(4A), the word "and" at the end of paragraph (a).

PART 8

ARCHITECTURE AND THE BUILT ENVIRONMENT

Commencement Information
I230 Sch. 5 Pt. 8 in force at 1.1.2006 by S.I. 2005/3439, **art. 2**

Short title and chapter	*Extent of repeal*
Environmental Protection Act 1990	In section 153(1), the paragraph (rr) inserted by article 2 of the Financial Assistance for Environmental Purposes (England) Order 2003 (S.I. 2003/714).

Status: *Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 9

USE OF FIXED PENALTY RECEIPTS

Commencement Information

I231 Sch. 5 Pt. 9 in force at 6.4.2006 for specified purposes for E. by S.I. 2006/795, art. 2(3), **Sch. 2** (with art. 4)

Short title and chapter	*Extent of repeal*
Local Government Act 2003 (c. 26)	Section 100(2)(f). Section 119.
Anti-social Behaviour Act 2003 (c. 38)	Section 45(3) to (9).

PART 10

CONTAMINATED LAND

Commencement Information

I232 Sch. 5 Pt. 10 in force at 4.8.2006 for specified purposes for E. by S.I. 2006/1361, **art. 2**

I233 Sch. 5 Pt. 10 in force at 10.12.2006 (being the day on which S.I. 2006/2989 came into force) for W. by S.I. 2006/768, **art. 4(b)**

Short title and chapter	*Extent of repeal*
Environmental Protection Act 1990 (c. 43)	In section 78L— (a) in subsection (4), paragraph (b) and, in paragraph (c), the words from "or on" to the end; (b) in subsection (6), the words ", so far as relating to appeals to the Secretary of State,".

Status:
Point in time view as at 31/01/2007. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Clean Neighbourhoods and Environment Act 2005 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.