



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 3

LITTER AND REFUSE

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)—
 - (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.”

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).”

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.”