



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### 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".
- (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.

## **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
  - (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.

**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.