



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 9

MISCELLANEOUS

Use of fixed penalty receipts

[^{F1}95A Use of fixed penalty receipts: higher tier authorities in England

- (1) This section applies in relation to amounts paid to an authority in England, other than a parish or community council, in pursuance of notices under—
 - (a) section 88 of the Environmental Protection Act 1990 (fixed penalty notices for leaving litter);
 - (b) paragraph 7 of Schedule 3A to the Environmental Protection Act 1990 (free distribution of printed matter on designated land: fixed penalty notices);
 - (c) section 43(1) of the Anti-social Behaviour Act 2003 (penalty notices for graffiti and fly-posting).
- (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 paid to it in pursuance of a notice under section 88 of the Environmental Protection Act 1990 only for the purposes of—
 - (a) the employment or engagement of its authorised officers, as defined in section 88(10) of the Environmental Protection Act 1990, or any of the functions of those officers,
 - (b) its functions relating to offences under the following provisions of the Environmental Protection Act 1990—
 - (i) section 87(1) (offence of leaving litter), or
 - (ii) section 88(8B) (offence of failing to give a name and address or giving a false or inaccurate name or address),

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- (c) its functions relating to the collection and disposal of litter and refuse,
 - (d) its functions relating to the restoration of land following littering, and
 - (e) such other of its functions as may be specified in regulations made by the Secretary of State.
- (4) An authority may use its fixed penalty receipts paid to it in pursuance of a notice under paragraph 7 of Schedule 3A to the Environmental Protection Act 1990 or section 43(1) of the Anti-social Behaviour Act 2003 only for the purposes of—
- (a) its functions under Part 4 of the Environmental Protection Act 1990 (litter etc);
 - (b) its functions under section 43 of the Anti-social Behaviour Act 2003 (penalty notices for graffiti and fly-posting);
 - (c) such other of its functions as may be specified in regulations made by the Secretary of State.
- (5) Regulations under subsection (4)(c) may (in particular) have the effect that an authority may use those fixed penalty receipts for the purposes of any of its functions.
- (6) An authority must supply the Secretary of State with such information relating to its fixed penalty receipts as the Secretary of State may require.
- (7) The Secretary of State may by regulations make provision—
- (a) about what an authority must do with its fixed penalty receipts pending the use of those receipts for the purposes referred to in subsection (3) or (4);
 - (b) about the period within which an authority must use those fixed penalty receipts for those purposes;
 - (c) about what an authority must do with those fixed penalty receipts that are not used for those purposes within that period;
 - (d) for accounting arrangements in respect of an authority's fixed penalty receipts.
- (8) The provision that may be made under subsection (7)(c) includes (in particular) provision for the payment of sums to a person (including the Secretary of State) other than the authority.
- (9) Before making regulations under this section, the Secretary of State must consult—
- (a) the authorities to which the regulations are to apply;
 - (b) such other persons as the Secretary of State thinks fit.]

Textual Amendments

F1 S. 95A inserted (1.4.2024) by [The Waste Enforcement \(Fixed Penalty Receipts\) \(Amendment\) \(England and Wales\) Regulations 2024 \(S.I. 2024/365\)](#), regs. 1(1), **3(a)**

96 Use of fixed penalty receipts: higher tier authorities [^{F2}in Wales]

- (1) This section applies in relation to—
- (a) amounts paid to an authority [^{F3}in Wales], 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 [^{F4}in Wales], other than a parish or community council, in pursuance of notices under section 43(1) of the Anti-social Behaviour Act 2003 (c. 38);

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- (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 [F5Welsh Ministers].
- (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 [F6Welsh Ministers] with such information relating to its fixed penalty receipts as the [F6Welsh Ministers] may require.
- (7) The [F7Welsh Ministers] 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 [F8Welsh Ministers]) other than the authority.
- (9) Before making regulations under this section, the [F9Welsh Ministers] must consult—
- (a) the authorities to which the regulations are to apply;
 - (b) such other persons as the [F9Welsh Ministers][F10think] 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.

Textual Amendments

- F2** Words in s. 96 heading inserted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(b)(i)**
- F3** Words in s. 96(1)(a) inserted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(b)(ii)**
- F4** Words in s. 96(1)(b) inserted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(b)(ii)**
- F5** Words in s. 96(4)(d) substituted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(b)(iii)(aa)**

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- F6** Words in s. 96(6) substituted (1.4.2024) by [The Waste Enforcement \(Fixed Penalty Receipts\) \(Amendment\) \(England and Wales\) Regulations 2024 \(S.I. 2024/365\)](#), regs. 1(1), **3(b)(iii)(bb)**
- F7** Words in s. 96(7) substituted (1.4.2024) by [The Waste Enforcement \(Fixed Penalty Receipts\) \(Amendment\) \(England and Wales\) Regulations 2024 \(S.I. 2024/365\)](#), regs. 1(1), **3(b)(iii)(cc)**
- F8** Words in s. 96(8) substituted (1.4.2024) by [The Waste Enforcement \(Fixed Penalty Receipts\) \(Amendment\) \(England and Wales\) Regulations 2024 \(S.I. 2024/365\)](#), regs. 1(1), **3(b)(iii)(dd)**
- F9** Words in s. 96(9) substituted (1.4.2024) by [The Waste Enforcement \(Fixed Penalty Receipts\) \(Amendment\) \(England and Wales\) Regulations 2024 \(S.I. 2024/365\)](#), regs. 1(1), **3(b)(iii)(ee)**
- F10** Word in s. 96(9)(b) substituted (1.4.2024) by [The Waste Enforcement \(Fixed Penalty Receipts\) \(Amendment\) \(England and Wales\) Regulations 2024 \(S.I. 2024/365\)](#), regs. 1(1), **3(b)(iv)**

Commencement Information

- I1** [S. 96](#) in force at 14.3.2006 for specified purposes for E. by [S.I. 2006/795](#), art. 2(1), **Sch. 1**
- I2** [S. 96](#) in force at 16.3.2006 for specified purposes for W. by [S.I. 2006/768](#), **art. 3**
- I3** [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**
- I4** [S. 96](#) in force at 15.3.2007 (being the date on which [S.I. 2007/739](#) came into force) for W. in so far as not already in force by [S.I. 2006/2797](#), **art. 4(ii)**

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.

Commencement Information

- I5** [S. 97](#) in force at 14.3.2006 for E. by [S.I. 2006/795](#), art. 2(1), **Sch. 1**
- I6** [S. 97](#) in force at 16.3.2006 for specified purposes for W. by [S.I. 2006/768](#), **art. 3**

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- I7** S. 97 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force by S.I. 2006/2797, **art. 4(mm)**

98 Sections [F¹¹95A,] 96 and 97: supplementary

- (1) In [F¹²section 97], “appropriate person” means—
- the Secretary of State, in relation to England;
 - the National Assembly for Wales, in relation to Wales.
- (2) The powers to make regulations conferred by sections [F¹³95A,] 96 and 97 include—
- power to make different provision for different purposes (including different provision for different authorities or different descriptions of authority);
 - power to make consequential, supplementary, incidental and transitional provision and savings.
- (3) Regulations under sections [F¹⁴95A,] 96 and 97 must be made by statutory instrument.
- (4) The Secretary of State may not make a statutory instrument containing regulations under [F¹⁵section 95A] or 97 unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Textual Amendments

- F11** Word in s. 98 heading inserted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(c)(i)**
- F12** Words in s. 98(1) substituted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(c)(ii)**
- F13** Word in s. 98(2) inserted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(c)(iii)**
- F14** Word in s. 98(3) inserted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(c)(iii)**
- F15** Words in s. 98(4) substituted (1.4.2024) by The Waste Enforcement (Fixed Penalty Receipts) (Amendment) (England and Wales) Regulations 2024 (S.I. 2024/365), regs. 1(1), **3(c)(iv)**

Commencement Information

- I8** S. 98 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), **Sch. 1**
- I9** S. 98 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**
- I10** S. 98 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force by S.I. 2006/2797, **art. 4(nn)**

Changes to legislation:

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Commencement Orders yet to be applied to the Clean Neighbourhoods and Environment Act 2005

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2007/120 art. 3](#) Amendment to earlier commencing S.I. 2006/2797