



Refuse Disposal (Amenity) Act 1978

1978 CHAPTER 3

Control of dumping

^{F1} **Provision by local authorities for disposal of refuse.** **E+W**

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Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

F1 [S. 1](#) repealed (1.4.2012) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 164(3), [Sch. 16 Pt. II](#) (with [Sch. 16 Pt. II](#)); [S.I. 2012/898](#), art. 2; [S.I. 2012/898](#), art. 2

Modifications etc. (not altering text)

C1 [S. 1](#) modified (E.W.) by [S.I. 1985/1884](#), art. 5, [Sch. 2 para. 14](#)

1 Provision by local authorities for disposal of refuse. **S**

- (1) It shall be the duty of a local authority to provide places where refuse, other than refuse falling to be disposed of in the course of a business, may be deposited at all reasonable times free of charge by persons resident in the area of the authority and, on payment of such charges (if any) as the authority think fit, by other persons [^{F6}and to dispose of refuse so deposited].
- (2) Any place provided by a local authority in pursuance of subsection (1) above shall either be situated within the area of the authority or, if not so situated, be reasonably accessible to persons resident in that area; and a local authority may if they think fit, without prejudice to the generality of their duty under subsection (1) above, determine that any such place shall be available for the deposit of refuse of such descriptions only as are specified in the determination.

Changes to legislation: There are currently no known outstanding effects for the Refuse Disposal (Amenity) Act 1978, Cross Heading: Control of dumping. (See end of Document for details)

- (3) A local authority may—
- (a) permit, on such terms as they think fit, the deposit at a place provided by them in pursuance of this section of refuse falling to be disposed of in the course of a business;
 - (b) provide plant and apparatus for the treatment or disposal of refuse deposited at such a place; and
 - (c) sell or otherwise dispose of any such refuse.
- (4) The power of a local authority to provide places, plant and apparatus and to accept and dispose of refuse in pursuance of the foregoing provisions of this section includes power to enter into an agreement with any other person for the provision of facilities by him for the purposes of those provisions at any place under his control.
- (5) No action shall lie against a local authority in respect of damage resulting from their failure to carry out their duty under this section; but if the Secretary of State is satisfied, after holding a local inquiry, that a local authority have failed to carry out that duty he may by order require the authority to take such steps for carrying it out as are specified in the order.
- (6) An order under subsection (5) above shall be enforceable on the application of the Secretary of State by [^{F7}by proceedings under s. 45 of the Court of Session Act 1988].
- (7) In this section—
- ^{F8}
- “refuse” includes any matter whatsoever, whether inorganic or organic.
- (8) On the relevant date, for subsection (1) of this section there shall be substituted the following subsection:—
- (It shall be the duty of a local authority to provide places where refuse, other than refuse falling to be disposed of in the course of a business, may be deposited at all reasonable times (including at least one period of time on the Saturday or the following day of each week except a week in which the Saturday is 25th December or 1st January) free of charge by any person.”

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.
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Textual Amendments

- F6** Words in s. 1(1) inserted (S.) (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15, para. 19\(2\)](#); S.I. 1992/266, [art. 3](#)
- F7** Words in s. 1(6) substituted (S.) (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 19\(3\)](#); S.I. 1992/266, [art. 3](#)
- F8** In s. 1(7) the definition of "local authority" and the word "and" which follows it repealed (S.) (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [Sch. 15 para. 19\(4\)](#); S.I. 1992/266, [art.3](#)

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2 Penalty for unauthorised dumping.

- (1) Any person who, without lawful authority,—
- (a) abandons on any land in the open air, or on any other land forming part of a [^{F2}highway][^{F2}road], a motor vehicle or anything which formed part of a motor vehicle and was removed from it in the course of dismantling the vehicle on the land; or
 - (b) abandons on any such land any thing other than a motor vehicle, being a thing which he has brought to the land for the purpose of abandoning it there,
- shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [^{F3}£100][^{F3}level 4 on the standard scale] or in the case of a second or subsequent conviction to a fine of an amount not exceeding [^{F3}£200][^{F3}level 4 on the standard scale] or imprisonment for a term not exceeding three months or both.
- (2) For the purposes of subsection (1) above, a person who leaves any thing on any land in such circumstances or for such a period that he may reasonably be assumed to have abandoned it or to have brought it to the land for the purpose of abandoning it there shall be deemed to have abandoned it there or, as the case may be, to have brought it to the land for that purpose unless the contrary is shown.
- (3) In Scotland, an offence under this section may be prosecuted in any court of summary jurisdiction within the meaning of [^{F4}section 307(1) of the Criminal Procedure (Scotland) Act 1995] having jurisdiction in the place where the offence was committed.

Textual Amendments

- F2** S. 2(1): "road" substituted (S.) for "highway" by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), [Sch. 9 para. 78\(2\)](#)
- F3** Words "level 4 on the standard scale" substituted (S.) for "£100" and "£200" by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289E–289G](#)
- F4** Words in s. 2(3) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), [Sch. 4 para. 15](#)

Modifications etc. (not altering text)

- C2** S. 2(1): [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 35](#) (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)
- C3** S. 2(1): [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289E](#) (in relation to liability on first and subsequent convictions) applies (S.)

[^{F5}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

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- (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.
- (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.

Changes to legislation: There are currently no known outstanding effects for the Refuse Disposal (Amenity) Act 1978, Cross Heading: Control of dumping. (See end of Document for details)

Textual Amendments

- F5** Ss. 2A-2C inserted (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 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 [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 10**, 108(1), 108(2); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(e); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(e)

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.

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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.
- (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—

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- (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.]

Textual Amendments

- F5** Ss. 2A-2C inserted (16.3.2006 for W. for specified purposes, 6.4.2006 for E., 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 [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), **ss. 10**, 108(1), 108(2); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(e); S.I. 2006/768, art. 3; S.I. 2006/795, art. 2(3), Sch. 2; S.I. 2006/2797, art. 4(e)

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