

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 3: Litter and Refuse

Free distribution of printed matter

Section 23 Controls on free distribution of printed matter

90. [Section 23](#) inserts section 94B and Schedule 3A into the 1990 Act. This gives principal litter authorities the power to control the distribution of free literature to prevent such material from becoming litter in the local environment.
91. Prior to section 23 coming into force, local authorities in London and the Council of the City of Newcastle upon Tyne had the power to designate areas in which the distribution of free literature can only occur with the consent of the authority (under section 4 of the London Local Authorities Act 1994 and section 22 of the City of Newcastle upon Tyne Act 2000). Distribution in these areas without consent was an offence punishable by a fine and the local authority may also seize any such literature.
92. [Section 23](#) repeals these powers and replaces them with similar legislation on a national basis, enabling all principal litter authorities to place restrictions on the distribution of free literature, through the designation of areas where this control will apply, and the establishment of a consent system.
93. [Paragraph 1](#) of Schedule 3A makes it an offence to distribute, commission or pay for the distribution of free literature without consent in a designated area. Material distributed for charitable, religious and political purposes is exempted from the offence. The offence does not extend to putting literature inside a building or letter-box, nor does it apply where the distribution takes place entirely within a public service vehicle, such as a bus or coach.
94. [Paragraph 2](#) enables an authority to make an order to designate areas where this offence will apply. It sets out the procedure and requirements for achieving designation, including public notification, consideration of objections and timing of designation.
95. [Paragraph 3](#) enables an authority to issue consents for the distribution of free literature in a designated area. This includes provisions allowing an authority to impose conditions on the consent to prevent defacement and ensure enforcement, to refuse consent in certain circumstances, and to revoke consent. The consent may also specify that others can also distribute the material in accordance with that consent, for example, a distributor, an individual or the employees of the applicant.

*These notes refer to the Clean Neighbourhoods and Environment
Act 2005 (c.16) which received Royal Assent on 7 April 2005*

96. [Paragraph 4](#) enables an authority to charge a fee, within the confines of overall cost recovery for this Schedule. [Paragraph 5](#) provides for appeal to a magistrates court.
97. [Paragraph 6](#) enables an authorised officer of an authority to seize the material when an offence is committed. A person claiming ownership of the literature may apply to the magistrates' court requesting the return of this material.
98. [Paragraph 7](#) enables an authority, or any person authorised by an authority, to issue a fixed penalty notice for this offence, offering the offender an opportunity to discharge any liability to the offence.
99. This paragraph enables an authority to specify the amount of fixed penalty and set provisions for variable payment rates, for example, for a lesser amount if the fine is paid within a specified time period. The fixed penalty is set at £75 where no amount is set by an authority.
100. [Paragraph 7](#) also provides an authorised officer of an authority with the power to require the name and address of a person to whom he intends giving a penalty notice, and makes it an offence to give inaccurate information.