



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 5

WASTE

CHAPTER 2

DEPOSIT AND DISPOSAL OF WASTE

Local authority waste collection and disposal

47 Abolition of requirement to contract out waste disposal functions

Section 32 of and Schedule 2 to the Environmental Protection Act 1990 (c. 43) (power to require local authorities to transfer waste disposal functions etc to specially formed companies) shall cease to have effect.

48 Offences relating to waste receptacles: fixed penalty notices

In the Environmental Protection Act 1990, after section 47 (receptacles for commercial or industrial waste) insert—

“47ZA Fixed penalty notices for offences under sections 46 and 47

- (1) This section applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 or 47 above in the area of that authority.

Status: This is the original version (as it was originally enacted).

- (2) The authorised 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 waste collection authority.
- (3) 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
 - (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (4) 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.
- (5) A notice under this section must also state—
 - (a) the period during which, by virtue of subsection (3) 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.
- (6) 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 (5) (c) above at the address so mentioned.
- (7) Where a letter is sent in accordance with subsection (6) 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.
- (8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (9) In any proceedings a certificate which—
 - (a) purports to be signed on behalf of the chief finance officer of the waste collection 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.
- (10) In this section—

“authorised officer”, in relation to a waste collection authority, means—

 - (a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

“chief finance officer”, in relation to a waste collection authority, means the person having responsibility for the financial affairs of the authority.

47ZB Amount of fixed penalty under section 47ZA

- (1) This section applies in relation to a fixed penalty payable to a waste collection authority in pursuance of a notice under section 47ZA above.
- (2) The amount of the fixed penalty—
 - (a) is the amount specified by the waste collection authority in relation to the authority's area, or
 - (b) if no amount is so specified, is £100.
- (3) The waste collection authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred on waste collection authorities under subsections (2)(a) and (3) above.
- (5) Regulations under subsection (4) may (in particular)—
 - (a) require an amount specified under subsection (2)(a) above to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (3) above.
- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (2)(b) above.”

49 Payments for waste recycling and disposal

- (1) Section 52 of the Environmental Protection Act 1990 (c. 43) (payments for recycling and disposal etc of waste) is amended as follows.
- (2) In subsection (1) after “so retained” insert—
 - “(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and
 - (b) in the case of a waste disposal authority in Wales”.
- (3) After subsection (1) insert—

“(1A) The Secretary of State may by order disapply subsection (1) above in relation to any waste disposal authority constituted under section 10 of the Local Government Act 1985 (joint arrangements for waste disposal in London and metropolitan counties).”
- (4) After subsection (1A) (as inserted by subsection (3) above) insert—

“(1B) A waste disposal authority is not required to make payments to a waste collection authority under subsection (1) above where, on the basis of arrangements involving the two authorities, the waste collection authority has agreed that such payments need not be made.”
- (5) In subsection (2) after “so collected” insert—

Status: This is the original version (as it was originally enacted).

- “(a) in the case of a waste collection authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and
 - (b) in the case of a waste collection authority in Wales”.
- (6) In subsection (3) after “so collected” insert—
 - “(a) in the case of a waste disposal authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and
 - (b) in the case of a waste disposal authority in Wales”.
- (7) In subsection (4) after “so collected” insert—
 - “(a) in the case of a waste collection authority in England, of such amounts as may be determined in accordance with regulations made by the Secretary of State; and
 - (b) in the case of a waste collection authority in Wales”.
- (8) After subsection (8) insert—
 - “(8A) The Secretary of State may give guidance—
 - (a) to a waste disposal authority in England, for the purposes of determining whether to exercise the power in subsection (3) above;
 - (b) to a waste collection authority in England, for the purposes of determining whether to exercise the power in subsection (4) above.”
- (9) At the end insert—
 - “(12) In this section, references to recycling waste include re-using it (whether or not the waste is subjected to any process).”

50 Power to require owner of land to remove waste

- (1) In section 59 of the Environmental Protection Act 1990 (c. 43) (power to require removal of waste unlawfully deposited), in subsection (7)(b) after “occupier of the land” insert “or the occupier cannot be found without the authority incurring unreasonable expense”.
- (2) After that section insert—

“59ZA Section 59: supplementary power in relation to owner of land

- (1) Where the grounds in subsection (2), (3) or (4) below are met, a waste regulation authority or waste collection authority may, by notice served on him, require the owner of any land in its area to comply with either or both of the requirements mentioned in subsection (1)(a) and (b) of section 59 above.
- (2) The grounds in this subsection are that it appears to the authority that waste has been deposited in or on the land in contravention of section 33(1) above and—
 - (a) there is no occupier of the land, or
 - (b) the occupier cannot be found without the authority incurring unreasonable expense.
- (3) The grounds in this subsection are that—

- (a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,
 - (b) the occupier of the land is not the same person as the owner of the land, and
 - (c) the occupier has failed to comply with the requirement mentioned in paragraph (a) above within the period specified in the notice.
- (4) The grounds in this subsection are that—
- (a) the authority has served a notice under subsection (1) of section 59 above imposing a requirement on the occupier of the land,
 - (b) the occupier of the land is not the same person as the owner of the land, and
 - (c) the requirement mentioned in paragraph (a) above has been quashed on the ground specified in subsection (3)(a) of that section.
- (5) Subsections (2) to (6) of section 59 above apply in relation to requirements imposed under this section on the owner of the land as they apply in relation to requirements imposed under that section on the occupier of the land but as if in subsection (3) there were inserted after paragraph (a)—
- “(aa) in order to comply with the requirement the appellant would be required to enter the land unlawfully; or”.
- (6) In this section “owner” has the meaning given to it in section 78A(9) below.”