



# London Local Authorities Act 2007

## 2007 CHAPTER ii

### PART 2

#### PUBLIC HEALTH AND THE ENVIRONMENT

##### *Waste and litter*

#### **19 Placing of receptacles for household waste**

Section 46 of the 1990 Act (receptacles for household waste) shall apply in the area of a borough council as if, in subsection (4), the following paragraph were inserted after paragraph (b)—

“(ba) the placing of the receptacles for the purpose of avoiding nuisance or detriment to the amenities of the area;”.

#### **20 Regulations relating to receptacles for household waste**

- (1) A borough council who have a duty by virtue of section 45(1)(a) of the 1990 Act to arrange for the collection of household waste from any premises, may make regulations requiring occupiers of such premises to place household waste for collection in receptacles of a kind and number specified.
- (2) A council may amend or revoke any regulations made under subsection (1) above.
- (3) Section 46 (2) to (5) of the 1990 Act (receptacles for household waste) shall apply in relation to any requirements contained in regulations made under subsection (1) above as if those requirements were made under section 46 (1) of that Act.
- (4) Any requirement contained in such regulations which relate to the periods during which receptacles should be placed on the highway shall be unenforceable by the council as respects any side of a road if the requirements are not described in a sign displayed on that side of the road.
- (5) The council shall cause to be published in at least two newspapers circulating in the borough notice—

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- (a) of the making, amendment or revocation of any regulations under subsection (1) above, the date on which the regulations are to come into force, or be amended or revoked, as the case may be, and the general effect of the regulations, the amendment or the revocation; and
- (b) stating (except in the case of a revocation)—
  - (i) an address at which the regulations can be inspected during reasonable office hours and purchased for a reasonable amount; and
  - (ii) a website address at which the regulations can be viewed.
- (6) The date on which the regulations are to come into force, be amended or be revoked, as the case may be, shall not be earlier than the expiration of one month from the publication of the notice under subsection (5) above.
- (7) Sections 63(1) (waste other than controlled waste), 78 (radioactive substances) and 96 (application of Part II) of the 1990 Act shall apply to the provisions of this section as they apply to the provisions of Part II of that Act.
- (8) In this section—
  - “receptacle” has the meaning given to it by section 46 of the 1990 Act;
  - “waste” and “household waste” have the meanings given to them by section 75 of the 1990 Act.
- (9) In this section and section 46 (2) to (6) of the 1990 Act as applied by subsection (3) above, “specified” means specified in regulations made under subsection (1) above.
- (10) Nothing in this section affects the ability of a borough council to serve notices under section 46 of the 1990 Act (receptacles for household waste).

## **21 Placing of receptacles for commercial or industrial waste**

- (1) Section 47 of the 1990 Act (receptacles for commercial or industrial waste) shall apply in the area of a borough council as if, in subsection (4), the following paragraph were inserted after paragraph (b)—
  - “(ba) the placing of the receptacles for the purpose of avoiding nuisance or detriment to the amenities of the area;”.
- (2) Requirements making provision under section 47(4)(ba) of the 1990 Act (as inserted by subsection (1) above) shall not apply to—
  - (a) a statutory undertaker in relation to any receptacle on its operational land;
  - (b) any other person who is an occupier of—
    - (i) any part of an aerodrome within the meaning of the Aviation Security Act 1982 (c. 36);
    - (ii) harbour premises within the meaning of Part III of the 1990 Act; or
    - (iii) other land comprised in a port facility within the meaning of article 2 of Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security;
  - (c) any other person who has been given an instruction by the Secretary of State under section 119 of the Railways Act 1993 (c. 43) (security: power of Secretary of State to give instructions) for so long as that instruction remains in effect; or

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- (d) any other person who is subject to a direction for the time being in force under article 16 of the [Channel Tunnel Security Order 1994 \(S.I. 1994 no. 570\)](#) or any similar provision replacing that article and that is contained in an order made under section 11 of the [Channel Tunnel Act 1987 \(c. 53\)](#) (regulation of the tunnel system: application and enforcement at law, etc.).
- (3) In subsection (2) above—
  - “operational land” has the same meaning as in the Planning Act; and
  - “statutory undertaker” has the same meaning as in section 262(1) of that Act.

## **22 Regulations relating to receptacles for commercial or industrial waste**

- (1) A borough council who are a waste collection authority under Part II of the 1990 Act may, if satisfied that doing so would prevent nuisances or detriment to the amenities of their area, make regulations requiring occupiers of premises to place commercial or industrial waste for collection in receptacles of a kind and number specified.
- (2) A council may amend or revoke any regulations made under subsection (1) above.
- (3) Section 47 (3) to (6) of the 1990 Act (receptacles for commercial or industrial waste) shall apply in relation to any requirements contained in regulations made under subsection (1) above, as if those requirements were made under section 47 (1) of that Act.
- (4) Any requirements contained in such regulations which relate to the periods during which receptacles should be placed on the highway shall be unenforceable by the council as respects any side of a road if the requirements are not described in a sign displayed on that side of the road.
- (5) The council shall cause to be published in at least two newspapers circulating in the borough notice—
  - (a) of the making, amendment or revocation of any regulations under subsection (1) above, the date on which the regulations are to come into force, or be amended or revoked, as the case may be, and the general effect of the regulations, the amendment or the revocation; and
  - (b) stating (except in the case of a revocation)—
    - (i) an address at which the regulations can be inspected during reasonable office hours and purchased for a reasonable amount; and
    - (ii) a website address at which the regulations can be viewed.
- (6) The date on which the regulations are to come into force, be amended or be revoked, as the case may be, shall not be earlier than the expiration of one month from the publication of the notice under subsection (5) above.
- (7) Sections 63(1) (waste other than controlled waste), 78 (radioactive substances) and 96 (application of Part II) of the 1990 Act shall apply to the provisions of this section as they apply to the provisions of Part II of that Act.
- (8) In this section—
  - “receptacle” has the meaning given to it by section 46 of the 1990 Act;
  - “waste”, “commercial waste” and “industrial waste” have the meanings given to them by section 75 of the 1990 Act.

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- (9) In this section and section 47 (3) to (6) of the 1990 Act as applied by subsection (3) above, “specified” means specified in regulations made under subsection (1) above.
- (10) Nothing in this section affects the ability of a borough council to serve notices under section 47 of the 1990 Act (receptacles for commercial or industrial waste).
- (11) Regulations under this section shall not apply to—
- (a) a statutory undertaker in relation to any of its operational land;
  - (b) any other person who is an occupier of—
    - (i) any part of an aerodrome within the meaning of the Aviation Security Act 1982 (c. 36);
    - (ii) harbour premises within the meaning of Part III of the 1990 Act; or
    - (iii) other land comprised in a port facility within the meaning of article 2 of Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security;
  - (c) any other person who has been given an instruction by the Secretary of State under section 119 of the Railways Act 1993 (c. 43) (security: power of Secretary of State to give instructions) for so long as that instruction remains in effect; or
  - (d) any other person who is subject to a direction for the time being in force under article 16 of the Channel Tunnel Security Order 1994 (S.I. 1994 no. 570) or any similar provision replacing that article and that is contained in an order made under section 11 of the Channel Tunnel Act 1987 (c. 53) (regulation of the tunnel system: application and enforcement at law, etc.).
- (12) In subsection (11) above—
- “operational land” has the same meaning as in the Planning Act; and
- “statutory undertaker” has the same meaning as in section 262(1) of that Act.

### **23 Regulations relating to receptacles for waste: enforcement**

- (1) This section is a penalty charge provision for the purposes of section 61 (penalty charges) of this Act.
- (2) A penalty charge is payable to a borough council for the purposes of the said section 61 by any occupier of premises in respect of which there has been a failure, without reasonable excuse, to comply with any requirements imposed by regulations made under subsection (1) of section 20 (regulations relating to receptacles for household waste) or subsection (1) of section 22 (regulations relating to receptacles for commercial or industrial waste) of this Act.
- (3) The occupier of premises in respect of which the failure to comply with the regulations occurred is the appropriate recipient for the purposes of the said section 61.
- (4) For the purposes of subsection (1) of section 62 (representations and appeals) of this Act the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this section are—
  - (a) that the recipient—
    - (i) never was the occupier of the premises in question;

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- (ii) had ceased to be their occupier before the date on which the penalty charge was alleged to have become payable;
    - (iii) became the occupier after that date;
  - (b) that there was no failure to comply with the requirement in respect of which the penalty charge notice was issued;
  - (c) that there was a reasonable excuse for the failure to comply with the said requirement;
  - (d) that the said requirement is unreasonable;
  - (e) that the receptacles in which household waste is placed for collection from the premises are adequate;
  - (f) that, in the case of a failure to comply with any requirement relating to the periods during which receptacles should be placed on a highway, no sign relating to those requirements was displayed on the side of the road, as required by subsection (4) of the said section 20 or subsection (4) of the said section 22 as the case may be;
  - (g) that the penalty charge exceeded the amount applicable in the circumstances of the case.
- (5) Where any of the grounds mentioned in subsection (4)(a) above is relied on in any representations made under subsection (1) of the said section 62, those representations must include a statement of the name and address of the occupier (if that information is in the recipient's possession).

## 24 Littering from vehicles

- (1) This section is a penalty charge provision for the purposes of section 61 (penalty charges) of this Act.
- (2) Subject to subsection (3) below, a penalty charge is payable to a borough council for the purposes of the said section 61 with respect to a motor vehicle or a pedicab by the owner of the vehicle or pedicab if a person inside or on board the vehicle or pedicab acts in contravention of section 87 of the 1990 Act (offence of leaving litter).
- (3) A penalty charge is not payable under subsection (2) above by the owner of a motor vehicle or pedicab if that vehicle or pedicab is—
- (a) a public service vehicle, within the meaning of the Public Passenger Vehicles Act 1981 (c. 14);
  - (b) a hackney carriage licensed under the Town Police Clauses Act 1847 (c. 89) or the Metropolitan Public Carriage Act 1869 (c. 115);
  - (c) a private hire vehicle licensed under the Private Hire Vehicles (London) Act 1998 (c. 34);
  - (d) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (licensing of private hire vehicles);
- and the person acting in contravention of the said section 87 is a passenger in that vehicle.
- (4) The said section 87 shall apply in respect of a borough as if after paragraph (b) of subsection (2) there were inserted “or
- (c) done in circumstances where a penalty charge would be payable to a London borough council by virtue of section 24(2) (littering from vehicles) of the [London Local Authorities Act 2007 \(c. ii\)](#).”.

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- (5) The owner of the vehicle is the appropriate recipient for the purposes of the said section 61.
- (6) For the purposes of subsection (1) of section 62 (representations and appeals) of this Act the grounds on which representations may be made against a penalty charge notice arising from a penalty charge payable by virtue of this section are—
- (a) that the recipient—
    - (i) never was the owner of the vehicle in question;
    - (ii) had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or
    - (iii) became its owner after that date;
  - (b) that no person inside the vehicle acted in contravention of the said section 87;
  - (c) that at the time the alleged contravention took place the person who was in control of the vehicle was in control of the vehicle without the consent of the owner;
  - (d) (except in the case of a pedicab) that the recipient is a vehicle-hire firm and—
    - (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
    - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty notice issued in respect of the vehicle during the currency of the hiring agreement; or
  - (e) that the penalty charge exceeded the amount applicable in the circumstances of the case.
- (7) Where the ground mentioned in subsection (6)(a)(ii) above is relied on in any representations made under subsection (1) of the said section 62, those representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).
- (8) Where the ground mentioned in subsection (6)(a)(iii) above is relied on in any representations made under the said subsection (1), those representations must include a statement of the name and address of the person from whom the vehicle was acquired by the person making the representations (if that information is in his possession).
- (9) Where, after considering any representations under the said subsection (1) the ground that is accepted is that mentioned in subsection (6)(d) above, the person hiring the vehicle shall be deemed to be its owner for the purposes of this section.
- (10) The owner of a vehicle for the purposes of this section shall be taken to be the person by whom the vehicle is kept, or in the case of an abandoned vehicle, the person by whom the vehicle was last kept.
- (11) In determining, for the purposes of this section, who was the owner of a motor vehicle at any time, it shall be presumed that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).
- (12) In this section, “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.

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## **25 Powers to require removal of waste unlawfully deposited**

- (1) Subject to subsections (4) and (8) below, section 59 of the 1990 Act shall have effect in the area of a borough council in accordance with this section.
- (2) For paragraph (a) of subsection (3) there is substituted—
  - “(a) the appellant took all reasonable precautions and exercised all due diligence to avoid the deposit of the waste;”.
- (3) After subsection (3) the following subsection is inserted—
  - “(3A) If in any case the ground given by the appellant under subsection (3)(a) above involves the allegation that the depositing of the waste was due to the act or default of another person, the appellant shall not, without leave of the court, be entitled to rely on that ground unless, no later than 7 clear days before the hearing of the appeal, he has served on the waste regulation authority or waste control authority a notice in writing giving such information (if any) as was then in his possession identifying or assisting in the identification of that other person.”.
- (4) The amendments made by this section shall not have effect until a code of practice dealing with the operation of section 59(3)(a) of the 1990 Act as substituted by subsection (2) above is published by a joint committee.
- (5) A council shall have regard to the code of practice when exercising their powers under section 59.
- (6) The joint committee shall cause to be published in the London Gazette notice of the date on which the amendments made by this section come into effect.
- (7) A photostatic or any other reproduction certified by the officer appointed for that purpose by a borough council to be a true reproduction of a page or part of a page of the London Gazette—
  - (a) bearing the date of its publication; and
  - (b) containing the notice,shall be evidence of the publication of the notice and of the date of publication.
- (8) This section shall not apply to notices served under section 59 of the 1990 Act in respect of—
  - (a) the operational land of a protected party;
  - (b) a highway or special road for which the Minister is the highway authority (see section 1 of the Highways Act 1980 (c. 66));
  - (c) land forming any part of an aerodrome within the meaning of the Aviation Security Act 1982 (c. 36);
  - (d) harbour premises within the meaning of Part 3 of the 1990 Act; or
  - (e) other land comprised in a port facility within the meaning of article 2 of Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security.
- (9) In this section—
  - “joint committee” means any joint committee established under section 101(5) of the Local Government Act 1972 (c. 70) and comprising at least one member from each borough council;
  - “operational land” has the same meaning as in the Planning Act;

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“protected party” means—

- (a) Network Rail Infrastructure Limited; and
- (b) Transport for London,

and their subsidiaries (within the meaning given by section 1159 of the Companies Act 2006 (c. 46)), servants, agents and contractors.

## 26 Civic amenity sites

- (1) A borough council may require proof from a person depositing, intending to deposit or attempting to deposit refuse or waste at an amenity site that the person is resident in the area of the council or in the area of an adjoining local authority (such proof to be in such reasonable form as the council may specify).
- (2) Any person who fails to prove to the council’s reasonable satisfaction that he is resident in an area in accordance with a requirement under subsection (1) above may be the subject of a requirement under subsection (4) below.
- (3) If a council—
  - (a) are satisfied that a person is depositing, intending to deposit or attempting to deposit at an amenity site refuse which is refuse falling to be disposed of in the course of a business; or
  - (b) are satisfied that refuse or waste is being or has been deposited at an amenity site in contravention of any requirements made by them relating to the receptacles to be used for the deposit of refuse or waste,
 the person depositing, intending to deposit or attempting to deposit the refuse or waste may be the subject of a requirement under subsection (4) below.
- (4) A requirement under this subsection is a requirement—
  - (a) not to enter the site;
  - (b) not to deposit waste or refuse at the site;
  - (c) to discontinue depositing waste or refuse at the site; or
  - (d) to retrieve any waste or refuse which has been deposited at the site and—
    - (i) remove it from the site; or
    - (ii) (in the case of waste or refuse which was placed in an incorrect receptacle) either place it in the correct receptacle or remove it from the site.
- (5) Any person who without reasonable excuse fails to comply with a requirement under subsection (4) above shall be guilty of an offence and liable on summary conviction—
  - (a) in the case of an offence arising from an alleged failure to comply with a requirement under the said subsection (4) which was made as a result of the relevant authority being satisfied under subsection (3)(b) above, to a fine not exceeding level 1 on the standard scale;
  - (b) in any other case to a fine not exceeding level 3 on the standard scale.
- (6) Any person who, in response to a requirement to show proof in accordance with subsection (1) above gives information which is false in a material particular and does so recklessly or knowing it to be false in that particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) In any proceedings for an offence under subsection (5) above, it shall be a defence—



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- (a) (in the case of an alleged failure to comply with a requirement under subsection (4) above which was made as a result of the council not being satisfied under subsection (2) above), that the council's requirements relating to the proof required by them were not made clear by the provision of signs at or near to the entrance to the amenity site;
  - (b) (in the case of an alleged failure to comply with a requirement under subsection (4) above which was made as a result of the relevant authority being satisfied under subsection (3)(b)), that the council's requirements relating to the receptacles to be used for the deposit of refuse or waste were not made clear by the provision of signs at the amenity site.
- (8) This subsection applies where a council have reasonable cause to believe that an offence under this section has been committed in their area by a person (in this section referred to as the "person responsible") who was—
- (a) the driver of a vehicle in the amenity site;
  - (b) in charge of a vehicle in the amenity site;
  - (c) otherwise brought to the amenity site in a vehicle.
- (9) Where subsection (8) above applies, the council may by notice in writing, specifying the offence and the provision of this section to which the notice relates, require—
- (a) the registered keeper of the vehicle to give them such information as they may require as to the identity of the person responsible;
  - (b) any other person to give them any information which it is in that person's power to give and which may lead to the identification of the person responsible.
- (10) A person shall be guilty of an offence if he fails to comply with a requirement of a notice under subsection (9) above or knowingly or recklessly gives false information in relation to the notice.
- (11) In any proceedings for failing to comply with such a requirement brought against the registered keeper of the vehicle it shall be a defence if he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who was the person responsible.
- (12) A person guilty of an offence under subsection (10) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) Where on summary trial of an information for an offence referred to in subsection (10) above—
- (a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 144 of the Magistrates' Courts Act 1980 (c. 43), that a requirement under subsection (9) above to give information as to the identity of the person responsible on the particular occasion to which the information relates has been served on the accused; and
  - (b) a written statement that the accused was the person responsible on that occasion is produced to the court; and
  - (c) the statement purports to be signed by the accused,
- the court may accept that statement as evidence that the accused was the person responsible.
- (14) In this section—

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- (a) an “amenity site” means a place provided by a council in compliance with a duty to provide places where refuse may be deposited, by virtue of section 1 of the 1978 Act;
- (b) “local authority” means a borough council, a district council, or (in the case of a county in which there are no district councils) a county council;
- (c) “registered keeper” in respect of a vehicle at any time means the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994 (c. 22).