



Environmental Protection Act 1990

1990 CHAPTER 43

PART II

WASTE ON LAND

Collection, disposal or treatment of controlled waste

[^{F1}46A Written warnings and penalties for failure to comply with requirements relating to household waste receptacles: England

- (1) This section applies where an authorised officer of a waste collection authority in England is satisfied that—
 - (a) a person has failed without reasonable excuse to comply with a requirement imposed by the authority under section 46(1), (3)(c) or (d) or (4) (a “section 46 requirement”), and
 - (b) the person's failure to comply—
 - (i) has caused, or is or was likely to cause, a nuisance, or
 - (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.
- (2) Where this section applies, the authorised officer may give a written warning to the person.
- (3) A written warning must—
 - (a) identify the section 46 requirement with which the person has failed to comply,
 - (b) explain the nature of the failure to comply,
 - (c) explain how the failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b),
 - (d) if the failure to comply is continuing, specify the period within which the requirement must be complied with and explain the consequences of the requirement not being complied with within that period, and

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- (e) whether or not the failure to comply is continuing, explain the consequences of the person subsequently failing to comply with the same or a similar section 46 requirement.
- (4) Where a written warning has been given in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that the person has failed to comply with the section 46 requirement identified in the warning within the period specified by virtue of subsection (3)(d).
 - (5) Where a person has been required to pay a fixed penalty under subsection (4) and that requirement has not been withdrawn on appeal, an authorised officer of the authority may require the person to pay a further fixed penalty to the authority if satisfied that the failure to comply is still continuing at the end of a relevant period which falls within the period of one year beginning with the day the written warning was given.
 - (6) For the purposes of subsection (5)—
 - (a) a “relevant period” is a period beginning with the day a final notice is served on the person under section 46C(5) in respect of the failure to comply that is continuing and ending with—
 - (i) where the person appeals against the requirement to pay a fixed penalty imposed by the final notice, the day on which the appeal that is the final appeal made by the person against the requirement is dismissed or withdrawn;
 - (ii) where the person does not appeal, the day on which the period for appealing expires;
 - (b) there is no relevant period where the person appeals as mentioned in paragraph (a)(i) and the requirement to pay the fixed penalty is withdrawn on appeal.
 - (7) Where a written warning has been given, whether or not in respect of a failure to comply that is continuing, an authorised officer of the waste collection authority may require the person to whom the written warning was given to pay a fixed penalty to the authority if satisfied that, within the period of one year beginning with the day the written warning was given —
 - (a) the person has again failed without reasonable excuse to comply with the section 46 requirement identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b), or
 - (b) the person has failed without reasonable excuse to comply with a section 46 requirement that is similar to the one identified in the warning and the person's failure to comply has had, or is or was likely to have, the effect described in subsection (1)(b).
 - (8) An authorised officer may require a person to pay a fixed penalty under subsection (5) or (7) each time that the authorised officer is satisfied of the matters mentioned in the subsection.
 - (9) An authorised officer imposing a requirement to pay a fixed penalty under subsection (4), (5) or (7) must act in accordance with section 46C.
 - (10) A “fixed penalty” means a monetary penalty of an amount determined in accordance with section 46B.

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- (11) An “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 purpose of giving written warnings and requiring payment of fixed penalties under this section;
 - (b) any person who, under arrangements made with the authority, has the function of giving such warnings and requiring such payments 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 warnings and requiring such payments.]

Textual Amendments

- F1** Ss. 46A-46D inserted (26.3.2015 for specified purposes, 15.6.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 58\(3\)](#), [115\(2\)\(c\)](#); [S.I. 2015/994](#), [art. 8](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)