



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART IV

#### LITTER ETC

##### *Provisions relating to litter*

#### **91 Summary proceedings by persons aggrieved by litter.**

- (1) A magistrates' court may act under this section on a complaint made by any person on the ground that he is aggrieved by the defacement, by litter or refuse, of—
  - (a) any relevant highway;
  - (b) any trunk road which is a special road;
  - (c) any relevant land of a principal litter authority;
  - (d) any relevant Crown land;
  - (e) any relevant land of a designated statutory undertaker; [<sup>F1</sup>or]
  - (f) any relevant land of a designated educational institution; [<sup>F2</sup>or]
  - (g) any relevant land within a litter control area of a local authority.]
- (2) A magistrates' court may also act under this section on a complaint made by any person on the ground that he is aggrieved by the want of cleanliness of any relevant highway or any trunk road which is a special road.
- (3) A principal litter authority shall not be treated as a person aggrieved for the purposes of proceedings under this section.
- (4) Proceedings under this section shall be brought against the person who has the duty to keep the land clear under section 89(1) above or to keep the highway clean under section 89(2) above, as the case may be.
- (5) Before instituting proceedings under this section against any person, the complainant shall give to the person not less than five days written notice of his intention to make the complaint and the notice shall specify the matter complained of.

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*Changes to legislation: Environmental Protection Act 1990, Section 91 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (6) If the magistrates' court is satisfied that the highway or land in question is defaced by litter or refuse or, in the case of a highway, is wanting in cleanliness, the court may, subject to subsections (7) and (8) below, make an order (“a litter abatement order”) requiring the defendant to clear the litter or refuse away or, as the case may be, clean the highway within a time specified in the order.
- (7) The magistrates' court shall not make a litter abatement order if the defendant proves that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.
- (8) The magistrates' court shall not make a litter abatement order where it appears that the matter complained of is the result of directions given to the local authority under section 89(6) above by the highway authority.
- (9) A person who, without reasonable excuse, fails to comply with a litter abatement order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.
- (10) In any proceedings for an offence under subsection (9) above it shall be a defence for the defendant to prove that he has complied, as respects the highway or land in question, with his duty under section 89(1) and (2) above.
- (11) A  
 [F3(a)] direction under section 89(6A); or]  
 [F4(b)] code of practice under section 89(7)  
 shall be admissible in evidence in any proceedings under this section and if any provision of such a [F5]direction or] code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.
- (12) Where a magistrates' court is satisfied on the hearing of a complaint under this section—
- (a) that, when the complaint was made to it, the highway or land in question was defaced by litter or refuse or, as the case may be, was wanting in cleanliness, and
  - (b) that there were reasonable grounds for bringing the complaint,
- the court shall order the defendant to pay such reasonable sum to the complainant as the court may determine in respect of the expenses incurred by the complainant in bringing the complaint and the proceedings before the court.
- (13) In the application of this section to Scotland—
- (a) for any reference to a magistrates' court there shall be substituted a reference to the sheriff;
  - (b) for any reference to a complaint there shall be substituted a reference to a summary application, and “complainant” shall be construed accordingly;
  - (c) for any reference to the defendant there shall be substituted a reference to the person against whom the proceedings are taken;
  - (d) for any reference to a highway and a relevant highway there shall be substituted a reference to a road and a relevant road; and
  - (e) for any reference to a highway authority there shall be substituted a reference to a roads authority,

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and any person against whom proceedings are brought may appeal on a point of law to the Court of Session against the making of a litter abatement order.

#### Textual Amendments

- F1** Word in s. 91(1)(e) inserted (E.W.) (6.3.2007 for E. and 18.1.2008 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 106, 108, [Sch. 4 para. 6](#); S.I. 2007/390, [art. 2\(a\)](#); S.I. 2007/3371, [art. 2\(a\)](#)
- F2** S. 91(1)(g) and preceding word repealed (E.W.) (6.3.2007 for E. and 15.3.2007 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 2](#); S.I. 2006/2797, [art. 4\(oo\)](#); S.I. 2007/390, [art. 2\(c\)](#)
- F3** S. 91(11)(a) inserted (S.) (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), [ss. 57\(3\)\(a\)](#), 145(2); S.S.I. 2004/420, [art. 3](#), Sch. 1
- F4** Words in s. 91(11) renumbered (S.) (28.10.2004) as s. 91(11)(b) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), [ss. 57\(3\)\(b\)](#), 145(2); S.S.I. 2004/420, [art. 3](#), Sch. 1
- F5** Words in s. 91(11) inserted (S.) (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), [ss. 57\(3\)\(c\)](#), 145(2); S.S.I. 2004/420, [art. 3](#), Sch. 1

#### Commencement Information

- I1** S. 91 in force: s. 91 not in force at Royal Assent see s. 164(2); s. 91(1)(a)-(f)(2)-(13) in force 1.4.1991, s. 91(1)(g) in force 1.6.1991 see s. 164(3) and [S.I. 1991/1042](#), [arts. 2, 3](#)

**Changes to legislation:**

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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\(4\)](#)