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Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 2

VEHICLES

Nuisance parking offences: fixed penalty notices

6 Power to give fixed penalty notices

- (1) Where on any occasion an authorised officer of a local authority has reason to believe that a person has committed an offence under section 3 or 4 in the area of that authority, the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the local authority.
- (2) 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.
- (3) 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.
- (4) A notice under this section must also state—
 - (a) the period during which, by virtue of subsection (2), 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.

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- (5) 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 (4)(c) at the address so mentioned.
- (6) Where a letter is sent in accordance with subsection (5) 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.
- (7) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (8) The fixed penalty payable to a local authority under this section is, subject to subsection (9), £100.
- (9) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (8).
- (10) The local authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (11) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, a local authority may make provision under subsection (10).
- (12) In any proceedings a certificate which—
 - (a) purports to be signed on behalf of the chief finance officer of the local 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.
- (13) In this section “chief finance officer”, in relation to a local authority, means the person having responsibility for the financial affairs of the authority.

Commencement Information

- I1** S. 6 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), Sch. 1
- I2** S. 6 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3

VALID FROM 06/04/2006

7 Power to require name and address

- (1) If an authorised officer of a local authority proposes to give a person a notice under section 6, the officer may require the person to give him his name and address.
- (2) A person commits an offence if—
 - (a) he fails to give his name and address when required to do so under subsection (1), or
 - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

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- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

8 Use of fixed penalty receipts

- (1) This section applies in relation to amounts paid to a local authority in pursuance of notices under section 6 (its “fixed penalty receipts”).
- (2) A local authority may use its fixed penalty receipts only for the purposes of—
- its functions under the Refuse Disposal (Amenity) Act 1978 (c. 3);
 - its functions under sections 99 to 102 of the Road Traffic Regulation Act 1984 (c. 27);
 - its functions relating to the enforcement of sections 3 and 4;
 - such other of its functions as may be specified in regulations made by the appropriate person.
- (3) Regulations under subsection (2)(d) may (in particular) have the effect that an authority may use its fixed penalty receipts for the purposes of any of its functions.
- (4) A local authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.
- (5) The appropriate person may by regulations—
- make provision for what a local authority is to do with its fixed penalty receipts—
 - pending their being used for the purposes of functions of the authority referred to in subsection (2);
 - if they are not so used before such time after their receipt as may be specified by the regulations;
 - make provision for accounting arrangements in respect of a local authority's fixed penalty receipts.
- (6) The provision that may be made under subsection (5)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.
- (7) Before making regulations under this section, the appropriate person must consult—
- the authorities to which the regulations are to apply;
 - such other persons as the appropriate person thinks fit.
- (8) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003 (c. 26), to be regarded as included among the powers mentioned in subsection (2) of that section.

Commencement Information

- I3** S. 8 in force at 14.3.2006 for specified purposes for E. by S.I. 2006/795, art. 2(1), Sch. 1
- I4** S. 8 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3

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9 Fixed penalty notices: supplementary

- (1) For the purposes of this section, “this group of sections” means sections 6 to 8 and this section.
- (2) In this group of sections—
 - “local authority” means—
 - (a) a district council in England;
 - (b) a county council in England for an area for which there is no district council;
 - (c) a London borough council;
 - (d) the Common Council of the City of London;
 - (e) the Council of the Isles of Scilly;
 - (f) a county or county borough council in Wales;
 - “appropriate person” means—
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the National Assembly for Wales;
 - “authorised officer”, in relation to a local authority, means an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under section 6.
- (3) Any order or regulations under this group of sections must be made by statutory instrument.
- (4) Any such order or regulations may make different provision for different purposes (including different provision in relation to different authorities or different descriptions of authority).
- (5) A statutory instrument containing an order or regulations made by the Secretary of State under this group of sections is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I5 S. 9 in force at 14.3.2006 for E. by S.I. 2006/795, art. 2(1), Sch. 1

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