



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 3

LITTER AND REFUSE

General

24 Fixed penalty notices: common provision

After section 97 of the Environmental Protection Act 1990 (c. 43) insert—

“97A Fixed penalty notices: supplementary

- (1) The appropriate person may by regulations make provision in connection with the powers conferred under—
 - (a) section 88(6A)(a) and (7) above;
 - (b) section 94A(4)(a) and (5) above;
 - (c) paragraph 7(4)(a) and (5) of Schedule 3A.
- (2) Regulations under subsection (1) may (in particular)—
 - (a) require an amount specified under section 88(6A)(a), 94A(4)(a) or paragraph 7(4)(a) of Schedule 3A to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, an authority can make provision under section 88(7), 94A(5) or paragraph 7(5) of Schedule 3A.
- (3) The appropriate person may by order substitute a different amount for the amount for the time being specified in section 88(6A)(b), 94A(4)(b) or paragraph 7(4)(b) of Schedule 3A.

Changes to legislation: Clean Neighbourhoods and Environment Act 2005, Cross Heading: General is up to date with all changes known to be in force on or before 24 May 2023. 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

(4) Regulations or an order under this section may make different provision for different purposes.”

Commencement Information

- I1** S. 24 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, art. 3
- I2** S. 24 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I3** S. 24 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. in so far as not already in force by S.I. 2006/2797, art. 4(k)

25 Exclusion of liability

In the Environmental Protection Act 1990 (c. 43), after section 97A (as inserted by section 24 above) insert—

“97B Exclusion of liability

- (1) None of the persons mentioned in subsection (2) below is to have any liability to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of the power in section 92(9), 92A(9) or 92C(3) above.
- (2) Those persons are—
 - (a) the principal litter authority and any employee of the authority; and
 - (b) in the case of the power in section 92C(3) above, any person authorised by the authority under that provision and the employer or any employee of that person.
- (3) Subsection (1) above does not apply—
 - (a) if the act or omission is shown to be in bad faith;
 - (b) to liability arising out of a failure to exercise due care and attention;
 - (c) so as to prevent an award of damages in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- (4) This section does not affect any other exemption from liability (whether at common law or otherwise).”

Commencement Information

- I4** S. 25 in force at 6.4.2006 for E. by S.I. 2006/795, art. 2(3), Sch. 2
- I5** S. 25 in force at 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W. by S.I. 2006/2797, art. 4(l)

26 “Appropriate person”

In section 98 of the Environmental Protection Act 1990 (definitions), after subsection (1) insert—

“(1A) “Appropriate person” means—

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- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the National Assembly for Wales.”

27 “Litter”

In section 98 of the Environmental Protection Act 1990 (definitions), after subsection (5) insert—

“(5A) “Litter” includes—

- (a) the discarded ends of cigarettes, cigars and like products, and
- (b) discarded chewing-gum and the discarded remains of other products designed for chewing.”

Changes to legislation:

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Commencement Orders yet to be applied to the Clean Neighbourhoods and Environment Act 2005

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2007/120 art. 3](#) Amendment to earlier commencing S.I. 2006/2797