
STATUTORY INSTRUMENTS

2018 No. 1227

The Environmental Protection (Miscellaneous
Amendments) (England and Wales) Regulations 2018

PART 2

Amendments relating to household waste transfer: penalty notices in England

Amendments to EPA 1990

- 3.—(1) Part 2 of the Environmental Protection Act 1990 (waste on land)⁽¹⁾ is amended as follows.
(2) After section 34 (duty of care etc. as respects waste)⁽²⁾ insert—

“Fixed penalty notices: offences under section 34(6) relating to section 34(2A): England

34ZA.—(1) This section applies where it appears to an enforcement authority in England that a person has failed to comply with the duty relating to the transfer of household waste in section 34(2A) in England.

(2) The authority may give to that person a notice offering the opportunity of discharging any liability to conviction for an offence under section 34(6) by payment of a fixed penalty.

(3) An authority may not give a person a notice under subsection (2) if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence.

(4) Where a waste collection authority (A) gives a notice to a person under subsection (2), A must, at the time of giving the notice—

- (a) give the Environment Agency a copy of the notice; and
- (b) where it appears to A that the failure to comply with the duty in section 34(2A) took place in the area of another waste collection authority (B), give B a copy of the notice.

(5) Where the Environment Agency gives a notice to a person under subsection (2), the Agency must, at the time of giving the notice, give a copy of the notice to the waste collection authority in whose area the failure to comply with the duty in section 34(2A) took place.

(6) Where a person is given a notice under subsection (2) in respect of an offence—

- (a) no proceedings may be instituted for that offence before the end of the period of 14 days following the date of the notice; and
- (b) the person may not be convicted of the offence if the fixed penalty is paid before the end of that period.

(7) The fixed penalty payable to an enforcement authority under this section is—

- (a) the amount specified by the authority in respect of the offence; or

⁽¹⁾ 1990 c.43.

⁽²⁾ Section 34 was amended by S.I. 2005/2900, 2006/123 (W. 16), 2007/3538, 2011/988. There are other amending instruments but none is relevant.

(b) if no amount is specified by the authority, £200.

(8) The amount specified by an authority in respect of the offence under subsection (7)(a) must not be less than £150 or more than £400.

(9) The enforcement 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 of not less than £120 is paid within the period of 10 days following the date on which notice is given under this section.

(10) 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.

(11) A notice under this section must also—

- (a) state the period during which, by virtue of subsection (6)(a), proceedings will not be instituted for the offence under section 34(6);
- (b) state the period during which, by virtue of subsection (6)(b), payment of the fixed penalty will discharge any liability to conviction for the offence;
- (c) state the amount of the fixed penalty;
- (d) state any lesser amount payment of which, by virtue of subsection (9), is treated as payment of the fixed penalty, and the period for payment of the lesser amount;
- (e) state the permissible methods of payment;
- (f) explain that—
 - (i) the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and that the person is not required to accept that offer; and
 - (ii) the person is entitled to make representations to the authority about the allegations contained in the notice;
- (g) state the address to which the person may send any representations;
- (h) explain that, by virtue of subsection (3), an authority may not give a person a notice under this section if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence;
- (i) state which other enforcement authorities the authority has sent a copy of the notice to in accordance with subsections (4) and (5).

(12) An enforcement authority may authorise in writing a person (an “authorised officer”) to give a notice under this section on its behalf.

(13) An authorised officer may require an occupier of domestic property to give the occupier’s name and address if the officer proposes to give the occupier a fixed penalty notice.

(14) A person commits an offence if the person—

- (a) fails to give a name or address when required to do so under subsection (13), or
- (b) gives a false or inaccurate name or address in response to a requirement under that subsection.

(15) A person guilty of an offence under subsection (14) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(16) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the chief finance officer of the enforcement 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.

(17) In this section—

“chief finance officer”, in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

“enforcement authority in England” means the Environment Agency or a waste collection authority in England.”.

(3) In section 73A (use of fixed penalty receipts)**(3)**—

(a) in subsection (1), after “section” insert “34ZA or”;

(b) in subsection (2), after “33ZB,” insert “34ZA,”.