



2011 CHAPTER 5

Waste

Fixed penalty notices for offences under Article 4

1. After Article 4 of the 1997 Order insert—

“Fixed penalty notices for offences under Article 4

4A.—(1) This Article applies where on any occasion an authorised officer has reason to believe that a person has committed an offence under Article 4.

(2) The authorised officer may give to that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the enforcing authority.

(3) Where a person is given a notice under this Article in respect of an offence—

(a) no proceedings may be instituted for that offence before the expiration of the period of 14 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 the period.

(4) A notice under this Article must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this Article must also state—

(a) the period during which, by virtue of paragraph (3), 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.

(6) 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 to the person mentioned in paragraph (5)(c) at the address so mentioned.

(7) Where a letter is sent in accordance with paragraph (6) 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.

(8) The form of a notice under this Article is to be such as the Department may by order prescribe.

(9) Subject to paragraph (10), the fixed penalty payable to an enforcing authority under this Article is an amount fixed by the enforcing authority being—

- (a) not less than £100; and
- (b) not more than £400.

(10) The Department may by order substitute a different amount for any amount for the time being specified in paragraph (9).

(11) An enforcing authority may make provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the enforcing authority.

(12) In any proceedings a certificate which—

- (a) purports to be signed by an authorised officer, 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) Article 22C (use of fixed penalty receipts by a district council) applies in relation to amounts received by a council under this Article as it applies in relation to amounts received under Article 22A.

(14) In this Article—

“authorised officer” means an officer of the enforcing authority who is authorised in writing by the enforcing authority for the purposes of this Article;

“enforcing authority” means—

- (a) the Department; and
- (b) in relation to an offence committed within its district, a district council.”.