



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 2

#### VEHICLES

##### *Abandoned vehicles*

VALID FROM 16/03/2006

#### **10 Offence of abandoning a vehicle: fixed penalty notices**

In the Refuse Disposal (Amenity) Act 1978 (c. 3), after section 2 (offence of unauthorised abandonment of vehicles etc) insert—

##### **“2A Fixed penalty notices for offence of abandoning vehicles**

- (1) Where on any occasion it appears to an authorised officer of a local authority that a person has committed an offence under section 2(1)(a) above 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 the offence by payment of a fixed penalty to the 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 the period.

*Status: Point in time view as at 07/04/2005. This version of this cross heading contains provisions that are not valid for this point in time.*

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- (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) above, 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.
- (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) above at the address so mentioned.
- (6) Where a letter is sent in accordance with subsection (5) above 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) below, £200.
- (9) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (8) above.
- (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) above.
- (12) An order or regulations under this section may make different provision for different purposes and in relation to different areas.
- (13) 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.
- (14) In this section—

“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 this section;

“chief finance officer”, in relation to a local authority, means the person having responsibility for the financial affairs of the authority.

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## **2B Fixed penalty notices: power to require name and address**

- (1) If an authorised officer of a local authority proposes to give a person a notice under section 2A above, 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) above, or
  - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) In this section “authorised officer” has the same meaning as in section 2A above.

## **2C Use of fixed penalties under section 2A**

- (1) This section applies in relation to amounts paid to a local authority in pursuance of notices under section 2A above (its “fixed penalty receipts”).
- (2) A local authority may use its fixed penalty receipts only for the purposes of—
  - (a) its functions under this Act;
  - (b) its functions under sections 99 to 102 of the Road Traffic Regulation Act 1984;
  - (c) its functions relating to the enforcement of sections 3 and 4 of the Clean Neighbourhoods and Environment Act 2005; and
  - (d) such other of its functions as may be specified in regulations made by the appropriate person.
- (3) Regulations under subsection (2)(d) above may in particular have the effect that a local 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—
  - (a) make provision for what a local authority is to do with its fixed penalty receipts—
    - (i) pending their being used for the purposes of functions of the authority referred to in subsection (2) above;
    - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
  - (b) make provision for accounting arrangements in respect of a local authority's fixed penalty receipts.

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- (6) The provision that may be made under subsection (5)(a)(ii) above 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—
  - (a) the authorities to which the regulations are to apply;
  - (b) 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, to be regarded as included among the powers mentioned in subsection (2) of that section.”

VALID FROM 18/10/2005

## 11 Notice of removal

- (1) Section 3 of the Refuse Disposal (Amenity) Act 1978 (c. 3) (removal of abandoned vehicles) is amended as follows.
- (2) After subsection (2) (requirement to give notice to occupier) insert—
  - “(2A) Subsection (2) does not apply where the vehicle is abandoned on a road (within the meaning of the Road Traffic Regulation Act 1984).”
- (3) Omit subsection (5) (requirement to give notice of removal of vehicle which ought to be destroyed).

VALID FROM 18/10/2005

## 12 Disposal

- (1) Section 4(1) of the Refuse Disposal (Amenity) Act 1978 (disposal of abandoned vehicles) is amended as follows.
- (2) For paragraphs (a) and (b) substitute—
  - “(a) in the case of a vehicle which in the opinion of the authority is in such a condition that it ought to be destroyed, at any time after its removal;
  - (b) in the case of a vehicle, not falling within paragraph (a), which—
    - (i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and
    - (ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom),
 at any time after its removal;”
- (3) Omit the words from “but not earlier” to the end.

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(4) In section 11(1) of that Act (interpretation), in the definition of “licence”, at the end insert “ (including a nil licence within the meaning of that Act) ”.

VALID FROM 18/10/2005

### 13 Guidance

In the Refuse Disposal (Amenity) Act 1978 (c. 3), after section 4 insert—

#### “4A Guidance

Any authority on whom functions are conferred under section 3 or 4 above must, in exercising those functions, have regard to any guidance given to the authority for the purpose by the appropriate person.”

### 14 Abandoned vehicles: supplementary

(1) The Refuse Disposal (Amenity) Act 1978 is amended as follows.

(2) In section 10(5), after “except” insert—

“(za) an order or regulations under section 2A above, or regulations under section 2C above, made by the National Assembly for Wales; or”.

(3) In section 11(1), after “that is to say—” insert—

““appropriate person” means—

(a) in relation to a local authority in England, the Secretary of State;

(b) in relation to a local authority in Wales, the National Assembly for Wales;”.

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