



Clean Neighbourhoods and Environment Act 2005

2005 CHAPTER 16

PART 3

LITTER AND REFUSE

Offence of dropping litter

18 Extension of litter offence to all open places

In section 87 of the Environmental Protection Act 1990 (c. 43) (offence of leaving litter), for subsections (1) to (4) substitute—

- “(1) A person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it.
- (2) This section applies to any place in the area of a principal litter authority which is open to the air, subject to subsection (3) below.
- (3) This section does not apply to a place which is “open to the air” for the purposes of this Part by virtue of section 86(13) above if the public does not have access to it, with or without payment.
- (4) It is immaterial for the purposes of this section whether the litter is deposited on land or in water.
- (4A) No offence is committed under subsection (1) above where the depositing of the litter is—
 - (a) authorised by law; or
 - (b) done by or with the consent of the owner, occupier or other person having control of the place where it is deposited.

(4B) A person may only give consent under subsection (4A)(b) above in relation to the depositing of litter in a lake or pond or watercourse if he is the owner, occupier or other person having control of—

- (a) all the land adjoining that lake or pond or watercourse; and
- (b) all the land through or into which water in that lake or pond or watercourse directly or indirectly discharges, otherwise than by means of a public sewer.

(4C) In subsection (4B) above, “lake or pond”, “watercourse” and “public sewer” have the same meanings as in section 104 of the Water Resources Act 1991.”

19 Litter offence: fixed penalty notices

(1) Section 88 of the Environmental Protection Act 1990 (c. 43) (fixed penalty notices for leaving litter) is amended as follows.

(2) For subsections (6) and (7) (amount of fixed penalty) substitute—

“(6) The fixed penalty payable in pursuance of a notice under this section is payable to the litter authority whose authorised officer gave the notice.

(6A) The amount of a fixed penalty payable in pursuance of a notice under this section—

- (a) is the amount specified by a principal litter authority in relation to its area (whether the penalty is payable to that or another authority), or
- (b) if no amount is so specified, is £75.

(6B) The reference in subsection (6A) above to a principal litter authority does not include an English county council for an area for which there is also a district council.

(7) The litter 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.”

(3) After subsection (8) insert—

“(8A) If an authorised officer of a litter authority proposes to give a person a notice under this section, the officer may require the person to give him his name and address.

(8B) A person commits an offence if—

- (a) he fails to give his name and address when required to do so under subsection (8A) above, or
- (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.

(8C) A person guilty of an offence under subsection (8B) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

(4) In subsection (9), at the end insert—

“(f) a parish or community council.”

(5) In subsection (10), for the definition of “authorised officer” substitute—

““authorised officer”, in relation to a litter authority, means—

- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;
- (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;”.

(6) After that subsection insert—

“(11) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under this section.”