



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 5

#### WASTE

### CHAPTER 2

#### DEPOSIT AND DISPOSAL OF WASTE

#### *Offences relating to documentation*

#### **45 Failure to furnish documentation: fixed penalty notices**

In the Environmental Protection Act 1990 (c. 43), after section 34 (duty of care etc as respects waste) insert—

#### **“34A Fixed penalty notices for certain offences under section 34**

- (1) This section applies where it appears to an enforcement authority that a person has failed to comply with a duty to furnish documents to that authority imposed under regulations made at any time under section 34(5) above.
- (2) The authority may serve on that person a notice offering him the opportunity of discharging any liability to conviction for an offence under section 34(6) above by payment of a fixed penalty.
- (3) 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 expiration of the period of fourteen days following the date of the notice; and

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*Status: Point in time view as at 15/03/2007.*

**Changes to legislation:** *Clean Neighbourhoods and Environment Act 2005, Section 45 is up to date with all changes known to be in force on or before 24 June 2024. 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)*

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- (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 section 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 section must also state—
  - (a) the period during which, by virtue of subsection (3) 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.
- (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 (in cash or otherwise) to the person mentioned in subsection (5) (c) above at the address so mentioned.
- (7) Where a letter is sent in accordance with subsection (6) 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.
- (8) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (9) The fixed penalty payable to an enforcement authority under this section is, subject to subsection (10) below, £300.
- (10) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (9) above.
- (11) 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 is paid before the end of a period specified by the authority.
- (12) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, an enforcement authority may make provision under subsection (11) above.
- (13) 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.
- (14) 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” means the Environment Agency or a waste collection authority.”

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### Commencement Information

- I1** S. 45 in force at 16.3.2006 for specified purposes for W. by S.I. 2006/768, **art. 3**
- I2** S. 45 in force at 6.4.2006 for E. by S.I. 2006/795, **art. 2(3)**, **Sch. 2**
- I3** S. 45 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(r)**

**Status:**

Point in time view as at 15/03/2007.

**Changes to legislation:**

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