
STATUTORY INSTRUMENTS

2005 No. 894

The Hazardous Waste (England and Wales) Regulations 2005

PART 10

ENFORCEMENT

Fixed penalties

70.—(1) Where an authorised person acting on behalf of the Agency has reason to believe that a person has committed an offence under regulation 65 to which this regulation applies, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) This regulation applies to an offence consisting of—

- (a) a failure to comply with any requirement of; or
- (b) making a false or misleading statement in purported compliance with,

any of the regulations listed in regulation 69(1)(a) to (i).

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

- (a) no proceedings shall be instituted for that offence before the expiration of twenty eight days following the date of the notice; and
- (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.

(4) A notice under this regulation shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall 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;
- (c) the name of 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 to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(6) Where a letter is sent in accordance with paragraph (5) payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) A fixed penalty notice issued pursuant to this section shall be in the form set out in Schedule 10.

(8) The fixed penalty payable in pursuance of a notice under this regulation shall be £300; and as respects the sums received by or on behalf of the Agency, those sums shall be paid to the Secretary of State.

(9) In any proceedings a certificate which—

- (a) purports to be signed by or on behalf of the chief finance officer of the Agency;
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

shall be evidence of the facts stated.

(10) In paragraph (8), “chief finance officer” means the person having responsibility for the financial affairs of the Agency.