

**2018 No.**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Environmental Offences (Fixed Penalties) (England)  
Regulations 2018**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes these Regulations in exercise of the powers—

- (a) in sections 34A(12), 47ZB(4) and (5) and 73A(2)(b), (3) and (8) of the Environmental Protection Act 1990(a) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 29(1A)(a) of that Act),
- (b) in sections 8A(4) and (5) and 9(4A)(b) and (4B) of the Noise Act 1996(b) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 11(2A)(a) of that Act),
- (c) in sections 88(11) and 97A(1) to (3) of the Environmental Protection Act 1990(c) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 98(1A)(a) of that Act),
- (d) in sections 43A(4) to (6) and 47(4) of the Anti-social Behaviour Act 2003(d) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 47(1) of that Act),
- (e) in sections 74(4) and (5) and 75(2)(d) and (3) of the Clean Neighbourhoods and Environment Act 2005(e) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 81(1) of that Act),
- (f) in sections 6(11) and 8(2)(d) and (3) of the Clean Neighbourhoods and Environment Act 2005 (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 9(2) of that Act),
- (g) in sections 2A(11) and 2C(2)(d) and (3) of the Refuse Disposal (Amenity) Act 1978(f) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 11(1) of that Act), and

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- (a) 1990 c.43. The definition of “appropriate person” was inserted by section 51 of the Clean Neighbourhoods and Environment Act 2005. Sections 34A, 47ZB and 73A were inserted by sections 45, 48 and 52 of that Act respectively.
  - (b) 1996 c.37. The definition of “appropriate person” was inserted by section 85(2) of the Clean Neighbourhoods and Environment Act 2005. Section 8A was inserted by 82(2) of the Clean Neighbourhoods and Environment Act 2005. Section 42(5) of the Anti-social Behaviour Act 2003 substituted section 9(4) and (4A) to (4f) of the Noise Act 1996 for section 9(4) of that Act. Section 9(4A) and (4B) was amended by the Clean Neighbourhoods and Environment Act 2005.
  - (c) The definition of “appropriate person” was inserted by section 26 of the Clean Neighbourhoods and Environment Act 2005. Sections 88(11) and 97A were inserted by section 19(6) and 24 of that Act respectively.
  - (d) 2003 c.38. Sections 43A and 47(4) were inserted by sections 28(2) and 30(2) of the Clean Neighbourhoods and Environment Act 2005 respectively.
  - (e) 2005 c.16.
  - (f) 1989 c.14. The definition of “appropriate person” was inserted by section 39(2) of the Clean Neighbourhoods and Environment Act 2005. Sections 5B and 5C were inserted by section 38 of that Act.

- (h) in sections 5B(12) and 5C(3)(b) and (4) of the Control of Pollution (Amendment) Act 1989(a) (and in respect of those sections, the Secretary of State is, in relation to England, the appropriate person as defined in section 9(1) of that Act).

In respect of regulations 8 to 13, the Secretary of State has consulted the authorities to which those regulations apply and such other persons as the Secretary of State thought fit or, in the case of section 9(4F) of the Noise Act 1996, considered appropriate, in accordance with—

- (a) section 2C(7) of the Refuse Disposal (Amenity) Act 1978,
- (b) section 5C(8) of the Control of Pollution (Amendment) Act 1989,
- (c) section 73A(7) of the Environmental Protection Act 1990,
- (d) section 9(4F)(b) of the Noise Act 1996, and
- (e) sections 8(7) and 75(7) of the Clean Neighbourhoods and Environment Act 2005.

### **Title and commencement**

1.—(1) These Regulations may be cited as the Environmental Offences (Fixed Penalties) (England) Regulations 2018.

(2) They come into force on \*\*\*.

### **Penalty: prescribed range: offences in relation to commercial etc. waste receptacles and noise**

2. The amount of a fixed penalty capable of being specified by—

- (a) a waste collection authority under section 47ZB(2)(a) of the Environmental Protection Act 1990 in respect of an offence under section 47 of that Act, or
- (b) a local authority under section 8A(2)(a) of the Noise Act 1996,

is not less than £75 and not more than £110.

### **Penalty: prescribed range: offences in relation to litter, distribution of printed matter, and graffiti and fly-posting**

3. The amount of a fixed penalty capable of being specified by—

- (a) a principal litter authority under section 88(6A)(a)(c) of the Environmental Protection Act 1990,
- (b) a principal litter authority under paragraph 7(4)(a) of Schedule 3A to the Environmental Protection Act 1990, or
- (c) a relevant local authority under section 43A(1)(a) of the Anti-social Behaviour Act 2003,

is not less than [x] and not more than [x].

### **Penalty: lesser amount: offences in relation to litter, distribution of printed matter, graffiti and fly-posting, and audible intruder alarms**

4. Where—

- (a) a litter authority acting under section 88(7) of the Environmental Protection Act 1990,
- (b) a principal litter authority acting under paragraph 7(5) of Schedule 3A(d) to the Environmental Protection Act 1990,

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(a) 1989 c.14. The definition of “appropriate person” was inserted by section 39(2) of the Clean Neighbourhoods and Environment Act 2005. Sections 5B and 5C were inserted by section 38 of that Act.

(b) Section 9(4F) was inserted by section 83(3) of the Clean Neighbourhoods and Environment Act 2005.

(c) Section 19(2) of the Clean Neighbourhoods and Environment Act 2005 substituted section 88(6), (6A), (6B) and (7) of the Environmental Protection Act 1990 for section 88(6) and (7) of that Act.

(d) Schedule 3A was inserted by section 23 of the Clean Neighbourhoods and Environment Act 2005.

- (c) a relevant local authority acting under section 43A(3) of the Anti-social Behaviour Act 2003, or
- (d) a local authority acting under section 74(3) of the Clean Neighbourhoods and Environment Act 2005,

makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, that amount must not be less than £50.

**Penalty: lesser amount: offences in relation to commercial etc. waste receptacles, noise, and exposing for sale etc. vehicles on roads**

**5. Where—**

- (a) a waste collection authority acting under section 47ZB(3) of the Environmental Protection Act 1990 in respect of an offence under section 47 of that Act,
- (b) a local authority acting under section 8A(3) of the Noise Act 1996, or
- (c) a local authority acting under section 6(10) of the Clean Neighbourhoods and Environment Act 2005,

makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, that amount must not be less than £60.

**Penalty: lesser amount: offence of abandoning vehicles**

6. Where a local authority acting under section 2A(10) of the Refuse Disposal (Amenity) Act 1978 makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, that amount must not be less than £120.

**Penalty: lesser amount: offences in relation to transporting controlled waste and duty of care as respects waste**

**7. Where—**

- (a) a regulation authority acting under section 5B(11) of the Control of Pollution (Amendment) Act 1989, or
- (b) an enforcement authority acting under section 34A(11) of the Environmental Protection Act 1990,

makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, that amount must not be less than £180.

**Use of receipts: offence of abandoning vehicles**

8.—(1) This regulation applies to a local authority to which section 2C of the Refuse Disposal (Amenity) Act 1978 (“the Act”) applies.

(2) Any other function of a local authority (in addition to those already specified in section 2C(2)(a) to (c) of the Act) is a function for which the authority may use the amounts it receives in pursuance of notices given under section 2A of the Act.

**Use of receipts: offences in relation to transporting controlled waste**

9.—(1) This regulation applies to a waste collection authority to which section 5C of the Control of Pollution (Amendment) Act 1989 (“the Act”) applies.

(2) Any other function of a waste collection authority (in addition to those already specified in section 5C(3)(a) of the Act) is a function for which the authority may use the amounts it receives in pursuance of notices given under section 5B of the Act.

### **Use of receipts: offence of unauthorised deposits of waste etc.**

**10.**—(1) This regulation applies to a waste collection authority to which section 73A of the Environmental Protection Act 1990 (“the Act”) applies.

(2) Any other function of a waste collection authority (in addition to those already specified in section 73A(2)(a) of the Act) is a function for which the authority may use the amounts it receives in pursuance of notices given under section 33ZA, 34A or 46A of the Act.

### **Use of receipts: offences relating to noise**

**11.**—(1) This regulation applies to a local authority to which section 9(4) of the Noise Act 1996 (“the Act”) applies.

(2) Any other function of a local authority (in addition to those already specified in section 9(4A)(a) to (ab) of the Act) is a qualifying function for which the authority may use the amounts it receives in pursuance of notices given under section 8 of the Act.

### **Use of receipts: nuisance parking offences**

**12.**—(1) This regulation applies to a local authority to which section 8 of the Clean Neighbourhoods and Environment Act 2005 (“the Act”) applies.

(2) Any other function of a local authority (in addition to those already specified in section 8(2)(a) to (c) of the Act) is a function for which the authority may use the amounts it receives in pursuance of notices given under section 6 of the Act.

### **Use of receipts: alarm notification offences**

**13.**—(1) This regulation applies to a local authority to which section 75 of the Act applies.

(2) Any other function of a local authority (in addition to those already specified in section 75(2)(a) to (c) of the Act) is a qualifying function for which the authority may use the amounts it receives in pursuance of notices given under section 73 of the Act.

### **Giving notices: parish or community councils: condition**

**14.** Before a parish or community council may authorise a person to give notices under—

- (a) section 88(1) of the Environmental Protection Act 1990, or
- (b) section 43(1) of the Anti-social Behaviour Act 2003,

the person must successfully complete a course of training suitable for equipping the person to give notices under those sections.

### **Amendments to the Environmental Protection Act 1990**

**15.**—(1) For subsection (6A)(b) of section 88 (fixed penalty notices for leaving litter) of the Environmental Protection Act 1990 substitute—

“(b) if no amount is so specified, is—

- (i) in England, [x], or
- (ii) in Wales, £75.”.

(2) For paragraph 7(4)(b) of Schedule 3A (free distribution of printed matter on designated land) of that Act substitute—

“(b) if no amount is so specified, is—

- (i) in England, [x], or
- (ii) in Wales, £75.”.

### Amendment to the Anti-social Behaviour Act 2003

16. For subsection (1)(b) of section 43A (amount of penalty for graffiti and fly-posting) of the Anti-social Behaviour Act 2003 substitute—

- “(b) if no amount is so specified, is—
- (i) in England, [*x*], or
  - (ii) in Wales, £75.”.

### Revocations

17.—(1) The following provisions of the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007(a) are revoked—

- (a) in regulation 2—
  - (i) paragraph (1)(a), (b), (c) and (e),
  - (ii) paragraph (2), and
  - (iii) paragraph (3),
- (b) in regulation 3—
  - (i) paragraph (1)(a), (b), (c) and (e),
  - (ii) paragraph (2), and
  - (iii) paragraphs (3) to (5), and
- (c) regulations 4 to 7.

(2) The Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Amendment) Regulations 2012(b) are revoked.

Signatory text

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department

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(a) S.I. 2007/175.  
(b) S.I. 2012/1151.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations replace the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007 as the instrument containing provisions supplementing provision in Acts for fixed penalties payable in respect of offences relating to the environment.

The Regulations prescribe the ranges within which the amounts of certain fixed penalties that are capable of being specified by a local authority are required to fall (regulations 2 to 3). The range for littering, free distribution of printed matter on designated land or graffiti or fly-posting in regulation 2(1) is increased by  $[x]$ . The increased amount is not less than  $[x]$  and not more than  $[x]$  (regulation 3).

The Regulations also state a minimum lesser amount which an authority may treat as payment of the full amount if paid before the end of a period specified by the authority in relation to certain fixed penalties (regulations 4 to 7).

Regulations 8 to 13 have the effect that the authorities may use the amounts received from certain fixed penalty notices for any of their functions.

The Regulations provide that before a person may be authorised by a parish or community council to give notices of certain fixed penalties, the person must successfully complete a course of training on the giving of those notices (regulation 14).

Regulations 15 and 16 amend the Environmental Protection Act 1990 and the Anti-social Behaviour Act 2003 in relation to England to increase by  $[x]$  the amount of the penalty for littering, free distribution of printed matter on designated land or graffiti or fly-posting where a local authority does not specify an amount. The increased amount is  $[x]$ .

Regulation 17 partially revokes the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007. Regulation 17 also revokes the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Amendment) Regulations 2012.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2017 No.**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Environmental Offences (Use of Fixed Penalty Receipts)  
(England) Regulations 2017**

*Made* - - - -

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*Coming into force* - -

*6th April 2017*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 96(4)(d) and (5) and 97(1) and (2)(a) of the Clean Neighbourhoods and Environment Act 2005(a) ("the Act").

The Secretary of State is, in respect of those sections, the appropriate person as defined in section 98(1)(a) of the Act in relation to England.

The Secretary of State has, in respect of regulation 3, consulted the authorities to which these Regulations apply and such other persons as the Secretary of State thinks fit, in accordance with section 96(9) of the Act.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament, in accordance with section 98(4) of the Act.

**Title and commencement**

**18.**—(1) These Regulations may be cited as The Environmental Offences (Use of Fixed Penalty Receipts) (England) Regulations 2017.

(2) They come into force on 6th April 2017.

**Use of receipts: lower tier authorities**

**19.**—(1) A parish or community council may use the amounts received by it in pursuance of notices under—

- (a) section 88 of the Environmental Protection Act 1990(b) (fixed penalty notices for leaving litter), and
- (b) section 43(1) of the Anti-social Behaviour Act 2003(c) (penalty notices for graffiti and fly-posting),

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(a) 2005 c.16.  
(b) 1990 c.43.  
(c) 2003 c.38.

for any of its functions.

(2) A parish or community council must give the Secretary of State any information about those amounts that the Secretary of State requires.

#### **Use of receipts: higher tier authorities**

**20.**—(1) This regulation applies in relation to amounts paid to an authority to which section 96(1)(a) and (b) of the Clean Neighbourhoods and Environment Act 2005 applies in pursuance of notices under—

- (a) section 88 and paragraph 7 (fixed penalty notices for free distribution of printed matter on designated land) of Schedule 3A to the Environmental Protection Act 1990;
- (b) section 43(1) of the Anti-social Behaviour Act 2003.

(2) Any other function of an authority (in addition to those already specified in section 96(4)(a) and (b) of the Clean Neighbourhoods and Environment Act 2005) is a qualifying function for which it may use those amounts.

#### **Revocation**

**21.** The Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007<sup>(a)</sup> are revoked.

Signatory text

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations revoke and remake the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007.

Regulations 2 and 3 have the effect that lower and higher tier authorities may use the amounts received from certain fixed penalty notices for any of their functions.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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(a) S.I. 2007/901.