Draft Regulations laid before Parliament under section 98(4) of the Clean Neighbourhoods and Environment Act 2005, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

ENVIRONMENTAL PROTECTION, ENGLAND

The Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007

Made - - - -	*2007*
Coming into force - -	*6th April 2007*

These Regulations are made in exercise of the powers conferred by sections 96(4)(d) and (5), 97(1), (2)(a), (b) and (c) and (3) and 98(2) of the Clean Neighbourhoods and Environment Act 2005 ("the 2005 Act")(**a**). In the case of section 96, these powers are exercised in accordance with section 100(1) of the Local Government Act 2003(**b**).

The Secretary of State is the appropriate person in relation to England, as defined in section 98(1)(a) of the 2005 Act.

The Secretary of State has, in respect of regulations 2 and 3, consulted the authorities to which these Regulations are to apply and such other persons as he thinks fit, in accordance with section 96(9) of the 2005 Act.

In accordance with section 98(4) of the 2005 Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Accordingly, the Secretary of State makes the following Regulations:

Title, commencement and application

1. These Regulations—

(a) may be cited as the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007;

(b) come into force on 6th April 2007;

(c) apply in England.

(**a**) 2005 c.16.

(**b**) 2003 c.26. It is provided by section 96(10) of the Clean Neighbourhoods and Environment Act 2005 that the powers to make regulations conferred by section 96 of that Act are, for the purposes of section 100(1) of the Local Government Act 2003, to be regarded as included among the powers mentioned in section 100(2) of the 2003 Act.

Use of fixed penalty receipts: specification of other qualifying functions

2.—(1) If an authority in relation to which section 96 of the Clean Neighbourhoods and Environment Act 2005 applies is categorised as "excellent", "good", "4 stars", "3 stars" or "2 stars" in a categorisation Order, any functions of that authority (in addition to those already specified in that section) are "qualifying functions" of the authority for the purposes of which it may use its fixed penalty receipts.

(2) In this regulation and in regulation 3, a "categorisation Order" means an Order as may from time to time be made by the Secretary of State under section 99(4) of the Local Government Act 2003.

Use of fixed penalty receipts: transitional arrangement

3. If an authority in relation to which section 96 of the Clean Neighbourhoods and Environment Act 2005 applies ceases to be categorised as "excellent", "good", "4 stars", "3 stars" or "2 stars" in a categorisation Order, regulation 2(1) is to continue to apply to it for a period of one year from the date on which that cessation comes into effect as though that authority were still categorised as "excellent", "good", "4 stars", "3 stars" or "2 stars".

Use of fixed penalty receipts by parish councils

4.—(1) A parish council may use any amounts it receives in pursuance of notices under—

(a) section 88 (fixed penalty notices for leaving litter) of the Environmental Protection Act 1990(**a**);

(b) section 43(1) (penalty notices for graffiti and fly-posting) of the Anti-social Behaviour Act 2003(**b**);

(c) section 59 (fixed penalty notices for offences under dog control orders) of the Clean Neighbourhoods and Environment Act 2005,

only for the purposes of its qualifying functions.

(2) The following are qualifying functions for the purposes of this regulation—

(a) functions under section 88 of the Environmental Protection Act 1990;

(b) functions under section 43 of the Anti-social Behaviour Act 2003;

(c) functions under Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005;

(d) where the parish council is approved as a Quality parish council, any other of its functions.

(3) A parish council must supply the Secretary of State with any information that he requires in relation to any amounts specified in paragraph (1) that it receives.

(4) In this regulation and in regulation 5, a "Quality parish council" is one that is approved as such by the Secretary of State.

(5) The Secretary of State shall publish, in such manner, and at such intervals, as he shall determine, a list of the parish councils approved as Quality parish councils.

Use of fixed penalty receipts by parish councils: transitional arrangement

5. If any parish council which is approved as a Quality parish council ceases to be so approved, the other functions referred to in regulation 4(2)(d) are to continue to be qualifying functions of

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(**a**) 1990 c.43; section 88(9)(f), as amended by section 19(1) and (4) of the Clean Neighbourhoods and Environment Act 2005, includes parish councils in the list of authorities defined as "litter authorities", the authorised officers of which are empowered to issue fixed penalty notices under that section.

(**b**) 2003 c.38; by virtue of qualifying as a litter authority for the purposes of section 88 of the Environmental Protection Act 1990, a parish council is also a local authority the authorised officers of which are empowered to issue fixed penalty notices under section 43 of the Anti-social Behaviour Act 2003; see section 47(1) of the 2003 Act.

that parish council for a period of one year from the date on which that cessation comes into effect as though that parish council were still approved as a Quality parish council.

Revocation

6. The Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006(**a**) are revoked.

Minister of State
Date Department for Environment, Food and Rural Affairs

(**a**) S. I. 2006/1334.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in England, revoke and supersede the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006, adding categories "4 stars", "3 stars" and "2 stars" to the categories "excellent" or "good" (regulations 2 and 3).

They provide that, if an authority in relation to which section 96 of the Clean Neighbourhoods and Environment Act 2005 applies is categorised as "excellent", "good", "4 stars", "3 stars" or "2 stars" in a categorisation Order, any functions of that authority (in addition to those already specified in that section) are "qualifying functions" of the authority for the purposes of which it may use its fixed penalty receipts (regulation 2). There are transitional provisions if an authority ceases to be so categorised (regulation 3).

The Regulations also provide, at regulation 4, that a parish council may use any amounts it receives in pursuance of notices issued under—

(a) section 88 of the Environmental Protection Act 1990 (relating to litter);

(b) section 43(1) of the Anti-social Behaviour Act 2003 (relating to graffiti and fly-posting); and

(c) section 59 of the 2005 Act (relating to dog control orders),

for its functions under those sections and, in relation to dog control orders, to its functions under the rest of Part 1 of Chapter 6 of the 2005 Act. A parish council that is approved as a Quality parish council may, in addition, use such amounts it receives for the purpose of any other of its functions. A Quality parish council is one that is approved as such by the Secretary of State.

If such a parish council ceases to be approved as a Quality parish council, the Regulations make transitional provisions (regulation 5).

A full regulatory impact assessment of the effect of the Clean Neighbourhoods and Environment Bill was prepared, and was deposited in the libraries of both Houses of Parliament; copies of it are available from the Department for Environment, Food and Rural Affairs, Ashdown House, 123 Victoria Street, London SW1E 6DE.

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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