Draft Regulations laid before Parliament under section 161(2ZC) of the Environmental Protection Act 1990, for approval by resolution of each House of Parliament.

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

2018 No.

ENVIRONMENTAL PROTECTION, ENGLAND

The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

Made - - - - ***

Coming into force - - *1st April 2018*

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The Secretary of State makes these Regulations in exercise of the powers conferred by section 88A of the Environmental Protection Act 1990(**a**).

A draft of these Regulations has been laid before Parliament in accordance with section 161(2ZC) of that Act(**b**) and approved by a resolution of each House of Parliament.

PART 1
Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.

(2) These Regulations come into force on 1st April 2018.

Interpretation

2. In these Regulations—

"the EPA 1990" means the Environmental Protection Act 1990;

"the RUCS Regulations 2013" means the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013(**c**);

"adjudicator" means a person who holds office as an adjudicator for the purposes of these Regulations in accordance with regulation 18(1);

"fixed penalty" is to be read in accordance with regulation 6(1) to (3);

"fixed penalty payment period" is to be read in accordance with regulation 6(4) and (5);

"penalty notice" has the meaning given in regulation 4(2).

(**a**) 1990 c.43. Section 88A was inserted by section 154(2) of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12).
(**b**) Section 161(2ZB) and (2ZC) was inserted by section 154(3) of the Anti-social Behaviour, Crime and Policing Act 2014.
(**c**) S.I. 2013/1783, to which there are amendments not relevant to these Regulations.

"Litter authority"

3. In these Regulations, a "litter authority" means—

(a) a district council in England;

(b) a county council in England for an area for which there is no district council;

(c) the Council of the Isles of Scilly.

PART 2

Penalties and enforcement

Penalty notices

4.—(1) A litter authority may give a penalty notice to a person who is the keeper of a vehicle if the condition in paragraph (3) is met.

(2) A penalty notice is a written notice requiring the person to pay a fixed penalty (see regulation 6).

(3) The condition is that the litter authority has reason to believe that a littering offence has been committed in respect of the vehicle on the authority's land.

(4) The authority's land is the land in respect of which the litter authority is under a duty under section 89(1) of the EPA 1990 (duty to keep land clear of litter etc.).

(5) A penalty notice must not be given—

(a) after the end of the period of 35 days beginning with the day on which the littering offence in question occurred,

(b) if a notice under section 88(1) of the EPA 1990 (which relates to fixed penalty notices for leaving litter) has been given to a person in respect of the same offence (whether or not the person is the vehicle's keeper), or

(c) if a prosecution has been brought against a person under section 87 of the EPA 1990 (offence of littering) in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution has concluded or was successful).

(6) A litter authority may cancel a penalty notice at any time by informing the recipient in writing.

(7) Part 3 (exemptions) sets out circumstances in which a person is not liable to pay a fixed penalty.

Content of penalty notices

5.—(1) A penalty notice must state—

(a) the circumstances alleged to constitute the littering offence in question, including the registration mark (if known) of the vehicle concerned,

(b) the fixed penalty payment period,

(c) the amount of the fixed penalty if paid within that period (see regulation 6(1) and (2));

(d) that the amount of the fixed penalty increases by 100% if not paid within that period (see regulation 6(3)),

(e) that the litter authority may recover any fixed penalty not paid within the fixed penalty payment period in court (see regulation 7),

(f) any lesser amount (see regulation 6(6)),

(g) the date by which the lesser amount must be paid in order for it to be treated as discharging the liability to pay the fixed penalty,

(h) the name and address of the person to whom the fixed penalty must be paid and the permissible methods of payment,

(i) that the person to whom the notice is addressed has a right to make representations to the litter authority (see regulation 14),

(j) the grounds on which, and the manner in which, representations may be made and the date by which they must be made (see regulation 14), and

(k) in general terms, the form and manner in which an appeal to an adjudicator may be made.

(2) In paragraph (1)(a), "registration mark" has the meaning given by section 23 of the Vehicle Excise and Registration Act 1994(**a**).

Penalty amount and payment

6.—(1) The amount of a fixed penalty is the amount specified by the litter authority under section 88(6A)(a) of the EPA 1990 (which relates to fixed penalty notices for leaving litter)(**b**).

(2) But if no amount is specified by the litter authority under that provision, the amount of the fixed penalty is £100.

(3) If a fixed penalty is not paid in full within the fixed penalty payment period, the amount of the fixed penalty increases by 100% with effect from the day after the last day of the fixed penalty payment period.

(4) The fixed penalty payment period is (except in the circumstances described in paragraph (5))—

(a) in a case where the person does not make any representations under regulation 14, the period of 28 days beginning with the day on which the penalty notice is given, or

(b) in a case where the person makes representations and the litter authority gives a notice of rejection (see regulation 15(3) to (5)) to the person, the period of 28 days beginning with the day on which the litter authority gives the notice of rejection.

(5) Where the person makes an appeal to an adjudicator under regulation 16, the fixed penalty payment period is—

(a) the period of 28 days beginning with the day on which that appeal is dismissed or withdrawn, or

(b) if a recommendation is made that the penalty notice is cancelled and the litter authority refuses to accept the recommendation (see regulations 16(7) and 17(3)), the period of 28 days beginning with the day on which the person is informed of the refusal under regulation 17(3).

(6) An authority may make provision for treating the amount in paragraph (1) or (2) as having been paid in full if a lesser amount is paid within the following period.

(7) The period is the period of 14 days beginning with the day on which the penalty notice is given.

(8) The lesser amount must not be less than £50.

(9) A fixed penalty is taken to be paid when it is received by the litter authority.

Recovery of unpaid amounts

7.—(1) This regulation applies where a litter authority has given a person a penalty notice and the person has not paid the fixed penalty in full within the fixed penalty payment period.

(2) The litter authority may recover any unpaid amount of the fixed penalty (being the increased amount referred to in regulation 6(3)) and any related costs awarded by an adjudicator—

(a) as a civil debt, or

(**a**) 1994 c.22.
(**b**) Section 88(6A) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005 (c.16).

(b) as if payable under a county court order, if the county court so orders.

(3) In paragraph (2), "costs awarded by an adjudicator" means the costs and expenses which are required to be paid to the litter authority under an order under paragraph 13 of the Schedule to the RUCS Regulations 2013 as it applies to these Regulations by virtue of regulation 19.

Further provision about giving notices

8.—(1) This regulation applies to the giving of notices under these Regulations by a litter authority to any person.

(2) A notice may be given to the person by—

(a) handing it to the person,

(b) leaving it at the person's proper address,

(c) sending it by post to the person at that address, or

(d) sending it to the person by electronic means in accordance with paragraph (9).

(3) Unless the contrary is proved—

(a) a notice sent by first class post to an address in the United Kingdom is to be treated as having been given on the second working day after the day on which it was posted;

(b) a notice sent by first class post to an address outside the United Kingdom is to be treated as having been given on the fifth working day after the day on which it was posted;

(c) a notice sent by electronic means is to be treated as having been given on the working day immediately following the day on which it was sent.

(4) A notice to a body corporate may be given to a director or to the secretary or clerk of that body.

(5) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(6) For the purposes of this regulation and of section 7 of the Interpretation Act 1978 (service of documents by post)(**a**) in its application to this regulation, the proper address of a person is—

(a) in the case of a body corporate or a director, secretary or clerk of a body corporate, the address of the body's registered or principal office;

(b) in the case of a partnership, partner or person having the control or management of the partnership business, the address of the partnership's principal office;

(c) in any other case, the person's last known address.

(7) Where a company registered outside the United Kingdom, or a partnership carrying on business outside the United Kingdom, has a principal office within the United Kingdom, its principal office is that office.

(8) If a person has informed the litter authority in writing of an address in the United Kingdom, other than the person's proper address within the meaning of paragraph (6), as the one at which the person or someone on the person's behalf will accept notices of the same description as a notice under these Regulations, that address is treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as the person's proper address.

(9) A notice may be sent to a person by electronic means only if—

(a) the person has informed the litter authority that notices of that description may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and

(b) the notice is sent to that address in that form.

(10) In this regulation—

(**a**) 1978 c.30.

"electronic address" means any number or address used for the purposes of sending or receiving documents or information by electronic means;

"working day" means a day other than—

(a) Saturday or Sunday,

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in England and Wales.

Further provision about cancelling notices

9.—(1) Where a litter authority cancels or is deemed to have cancelled a penalty notice under these Regulations, the authority must as soon as practicable refund any amount paid in respect of the notice.

(2) But paragraph (1) does not apply where an adjudicator has—

(a) given directions to a litter authority requiring the cancellation of a penalty notice under regulation 16(6), and

(b) the directions include directions about the refund of any amount paid in respect of the penalty notice.

(3) A cancellation or deemed cancellation of a penalty notice does not prevent the litter authority which gave the notice from giving a further penalty notice in respect of the same littering offence (whether to the same or another person).

Authorised officers

10.—(1) A litter authority may authorise a person (an "authorised officer") to perform on its behalf any of the functions conferred on it by regulation 4 (penalty notices).

(2) The authorisation must be in writing.

Use of receipts by litter authorities

11. Sums received by a litter authority under these Regulations may be used by the authority for the purposes of any of its functions which are—

(a) listed in section 96(4)(a) to (c) of the Clean Neighbourhoods and Environment Act 2005(**b**), or

(b) specified in regulations under section 96(4)(d) of that Act.

PART 3

Exemptions

Public service vehicles and licensed taxis etc.

12.—(1) A person who is the keeper of a vehicle is not liable to pay a fixed penalty for a littering offence committed in respect of the vehicle if—

(a) the vehicle is of a kind listed in paragraph (2), and

(b) the person who committed the offence was, at the time of the offence, a passenger in the vehicle.

(2) The kinds of vehicle are—

(**a**) 1971 c.80.
(**b**) 2005 c.16.

(a) a public service vehicle, within the meaning of section 1 of the Public Passenger Vehicles Act 1981(**a**);

(b) a hackney carriage licensed under section 37 of the Town Police Clauses Act 1847(**b**) or section 6 of the Metropolitan Public Carriage Act 1869(**c**);

(c) a vehicle in respect of which a private hire vehicle licence is in force within the meaning given by section 6(6) of the Private Hire Vehicles (London) Act 1998(**d**);

(d) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976(**e**) (licensing of private hire vehicles);

(e) a vehicle licensed under section 5 of the Plymouth City Council Act 1975(**f**) (licensing of private hire vehicles).

Discharge of liability where action taken against person who littered

13. The liability of a person who is the keeper of a vehicle to pay a fixed penalty for a littering offence in respect of the vehicle is discharged if—

(a) a notice under section 88(1) of the EPA 1990 is subsequently given to a person in respect of the same offence (whether or not the person is the vehicle's keeper), or

(b) a prosecution is subsequently brought against a person under section 87 of the EPA 1990 in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution is successful).

PART 4

Representations and appeals

Representations against penalty notice

14.—(1) A person to whom a penalty notice is given may make written representations to the litter authority if it appears to the person that one or more of grounds A to L apply.

(2) The representations may only be made within the period of 28 days beginning with the day on which the penalty notice is given.

(3) Ground A is that the littering offence in question did not occur.

(4) Ground B is that the person was not the keeper of the vehicle at the time of the littering offence because the person became the keeper of the vehicle after the littering offence occurred.

(5) Ground C is that the person was not the keeper of the vehicle at the time of the littering offence because the person had disposed of the vehicle to another person before the littering offence occurred.

(6) Ground D is that the person was not the keeper of the vehicle at the time of the littering offence because the vehicle was a stolen vehicle when the littering offence occurred.

(7) Ground E is that the person—

(a) was engaged in the hiring of vehicles in the course of a business at the time of the littering offence, and

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(**a**) 1981 c.14. Section 1 was amended by Schedule 8 to the Transport Act 1985 (c.67).
(**b**) 10 and 11 Vict c.89.
(**c**) 1869 c.115. Section 6 was substituted by paragraph 5(3) of Schedule 20 to the Greater London Authority Act 1999 (c.29) and amended by S.I. 2014/560.
(**d**) 32 and 33 Vict c.115.
(**e**) 1976 c.57. Section 48 was amended by paragraph 16 of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c.54).
(**f**) 1975 c.xx.

(b) was not the keeper of the vehicle at that time by virtue of a vehicle hire agreement.

(8) Ground F is that the person was not the keeper of the vehicle at the time of the littering offence for a reason not mentioned in grounds B to E.

(9) Ground G is that the litter authority was not, by virtue of regulation 4(5), authorised to give the person a penalty notice.

(10) Ground H is that the person is not liable to pay the fixed penalty by virtue of regulation 12.

(11) Ground I is that liability to pay the fixed penalty has been discharged in the circumstances set out in regulation 13.

(12) Ground J is that the fixed penalty exceeds the amount payable under these Regulations.

(13) Ground K is that the litter authority has failed to observe any requirement imposed on it by these Regulations in relation to the imposition or recovery of the fixed penalty.

(14) Ground L is that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).

(15) If a person makes representations that ground B applies, the representations must include the name and address of the other person from whom the vehicle was acquired (if known).

(16) If a person makes representations that ground C applies, the representations must include—

(a) the name and address of the other person to whom the vehicle had been disposed of (if known), or

(b) a statement that the name and address of that person is not known.

(17) If a person makes representations that ground D applies, the representations must include the crime reference number, insurance claim reference or other evidence of the vehicle's theft.

(18) If a person makes representations that ground E applies, the representations must include—

(a) a statement signed by or on behalf of the person to the effect that at the time of the littering offence the vehicle was hired to a named person under a vehicle hire agreement with the person, and

(b) a copy of the vehicle hire agreement.

(19) In paragraph (7)(b), the reference to a person ("P") being a keeper of a vehicle by virtue of a vehicle hire agreement includes a reference to any period during which, with the consent of the person hiring the vehicle, P continues in possession of the vehicle as hirer, after the expiry of any period specified in the agreement but otherwise on the terms and conditions specified in it.

(20) In this regulation, "vehicle hire agreement" means an agreement which—

(i) provides for a vehicle to be let to a person for a period of any duration (whether or not the period is capable of extension by agreement between the parties), and

(ii) is not a hire-purchase agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974(**a**).

Functions of litter authority following representations

15.—(1) A litter authority which receives representations under regulation 14 must—

(a) consider them and any supporting evidence which the person making the representations provides, and

(b) decide whether or not it accepts that one or more of the grounds in regulation 14 applies.

(2) If the litter authority accepts that one or more of the grounds in regulation 14 applies, it must cancel the penalty notice and inform the person who made the representations of the cancellation in writing.

(3) If the litter authority does not accept that one or more of the grounds in regulation 14 applies, it must give a notice of rejection to the person who made the representations.

(**a**) 1974 c.39. "Hire-purchase agreement" is defined in section 189.

(4) A notice of rejection is a notice informing the person who made the representations that the litter authority does not accept that one or more grounds in regulation 14 applies.

(5) The notice of rejection must state —

(a) the litter authority's decision and the reasons for it,

(b) that the person has a right to appeal to an adjudicator within the period of 28 days beginning with the day on which the notice of rejection is given,

(c) in general terms, the form and manner in which an appeal to an adjudicator may be made, and

(d) that an adjudicator has power to award costs against a person appealing against the decision set out in the notice of rejection.

(6) The litter authority must carry out its functions under this regulation within the period of 56 days beginning with the day on which the representations are received.

(7) If a litter authority fails to comply with this regulation, it is deemed to have—

(a) decided that it accepts that one or more of the grounds in regulation 14 applies, and

(b) cancelled the penalty notice under paragraph (2).

Appeals against notice of rejection

16.—(1) A person who is given a notice of rejection (see regulation 15(3) to (5)) may appeal against it.

(2) The appeal must be made to an adjudicator (see regulation 18).

(3) The appeal must (except in the circumstances described in paragraph (4)) be made within the period of 28 days beginning with the day on which the notice of rejection is given.

(4) An adjudicator may allow a longer period within which an appeal may be made (whether or not the period of 28 days has expired).

(5) If the adjudicator concludes that one or more of the grounds in regulation 14 applies, the adjudicator must allow the appeal.

(6) Where an appeal is allowed, the adjudicator may give written directions to the litter authority which the adjudicator considers appropriate for the purpose of giving effect to the adjudicator's decision.

(7) Despite not allowing an appeal, an adjudicator may give a written recommendation to the litter authority that it cancel the penalty notice if the condition in paragraph (8) is met.

(8) The condition is that the adjudicator is satisfied that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled.

(9) An adjudicator must dismiss an appeal if the adjudicator concludes that—

(a) none of the grounds in regulation 14 applies, and

(b) there are no compelling reasons why the penalty notice should be cancelled.

Functions of litter authority following adjudication

17.—(1) A litter authority must comply with any direction given to it under regulation 16(6) as soon as practicable.

(2) A litter authority which is the subject of a recommendation under regulation 16(7) must reconsider whether to cancel the penalty notice, taking account of any observations made by the adjudicator.

(3) Within the period of 35 days beginning with the day on which the recommendation under regulation 16(7) is made, the authority must inform the appellant and the adjudicator in writing—

(a) whether or not it accepts the adjudicator's recommendation,

(b) if it does accept the adjudicator's recommendation, that the penalty notice is cancelled, and

(c) if it does not accept the adjudicator's recommendation, of the reasons for its decision.

(4) No appeal to an adjudicator lies against the decision of the litter authority under paragraph (3).

(5) If a litter authority fails to comply with paragraph (3), it is deemed to have accepted the adjudicator's recommendation and to have cancelled the penalty notice.

Adjudicators

18.—(1) A person who at any time holds office as an adjudicator for the purposes of Part 6 of the Traffic Management Act 2004(**a**) by virtue of an appointment under regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007(**b**) also holds office at that time (and on the same terms) as an adjudicator for the purposes of these Regulations.

(2) The litter authorities must—

(a) provide, or make arrangements for the provision of, accommodation, administrative staff and facilities for adjudicators,

(b) determine the places where adjudicators are to sit,

(c) appoint a member of the administrative staff to fulfil the functions of the proper officer (for the purposes of the Schedule to the RUCS Regulations 2013 as it applies by virtue of regulation 19),

(d) fix the date by which each adjudicator is to make the report mentioned in paragraph (5), and

(e) make and publish an annual report to the Secretary of State on the discharge by adjudicators of their functions under these Regulations.

(3) The functions in paragraph (2) must be discharged by the joint committee or joint committees responsible for discharging functions relating to parking contraventions in accordance with regulation 16(1) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

(4) The litter authorities must pay the expenses associated with the adjudication process (including the expenses of the joint committee or joint committees and the remuneration of adjudicators)—

(a) in such proportions as they may decide, or

(b) in default of any decision, as may be determined by an arbitrator nominated by the Chartered Institute of Arbitrators on the application of any litter authority.

(5) Each adjudicator must prepare a report of the performance of the adjudicator's functions under these Regulations in each financial year.

(6) The report relating to a financial year must be given to the joint committee or joint committees as soon as practicable after the end of the financial year.

(7) For the purposes of paragraphs (5) and (6), each of the following is a "financial year"—

(a) the period beginning with 1st April 2018 and ending with 5th April 2019, and

(b) each successive period of 12 months.

Appeal procedure

19.—(1) The Schedule to the RUCS Regulations 2013 (which relates to procedure in adjudication proceedings) applies in respect of appeals made under regulation 16 as it applies in respect of adjudication proceedings under those Regulations but as if—

(a) each reference to a charging authority (except that in paragraph 9(1)) were a reference to a litter authority;

(**a**) 2004 c.18.
(**b**) S.I. 2007/3483.

(b) each reference to a notice of rejection were a reference to a notice of rejection given in accordance with regulation 15(3) to (5) of these Regulations;

(c) each reference to a proper officer were to a proper officer appointed in accordance with regulation 18(2)(c) of these Regulations;

(d) in paragraph 1(1) "appeal period" were defined as meaning the 28-day period referred to in regulation 16(3) of these Regulations;

(e) in paragraph 1(2)—

(i) in the definition of "the original representations", the reference to regulation 8(1), 32(3) or 35(3) (as the case may be) of the RUCS Regulations 2013 were a reference to regulation 14(1) of these Regulations;

(ii) the definition of "the relevant notice of rejection" were omitted;

(f) in paragraph 2(2)(d)—

(i) the reference to a penalty charge notice were a reference to a penalty notice;

(ii) the reference to a penalty charge were a reference to a fixed penalty;

(g) in paragraph 3(4)(a) the reference to a penalty charge notice were a reference to a penalty notice;

(h) in paragraph 3(4)(c) the word "relevant" were omitted;

(i) in paragraph 4(1) the reference to regulations 8(3), 32(4) or 35(4) (as the case may be) of the RUCS Regulations 2013 were a reference to regulation 14(3) to (14) of these Regulations;

(j) for paragraph 5 there were substituted—

"Adjudicator's power to request attendance of witnesses and production of documents

5.—(1) The adjudicator may, by notice in writing served on any person (including a party to the proceedings), request that person—

(a) to attend, at a time and place specified by the adjudicator, to give evidence at the hearing of an appeal; and

(b) to produce any documents in that person's custody or under that person's control, relating to any matter in the proceedings.

(2) An adjudicator may award the necessary expenses of any person other than the appellant who complies with a request under sub-paragraph (1).".

(k) in paragraph 9(1) the reference to a charging authority were a reference to a litter authority and any authorised officer of the authority (see regulation 10(1));

(l) in paragraph 11(1) there were inserted at the end "(including, where, despite not allowing the appeal, the adjudicator recommends that the penalty notice be cancelled, the reasons for that recommendation)";

(m) in paragraph 17(1) the reference to the RUCS Regulations 2013 were a reference to these Regulations;

(n) in paragraph 17(4) the reference to an enforcement authority were a reference to a litter authority;

(o) Part 4 were omitted;

(p) in paragraph 21(1) the reference to the RUCS Regulations 2013 were a reference to these Regulations.

(2) Any aspect of procedure in respect of appeals under regulation 16 not provided for under this regulation may be regulated by the adjudicators themselves.

Evidence produced by a recording device

20.—(1) Evidence of a fact relevant to proceedings conducted under regulation 19 may be given by the production of—

(a) a record produced by a recording device, and

(b) (in the same or another document) a certificate stating the circumstances in which the record was produced, signed by a person authorised to do so by the litter authority which installed the device.

(2) A "recording device" is a camera or other device capable of producing a record of—

(a) the presence of a particular vehicle on the litter authority's land (within the meaning given by regulation 4(4)), and

(b) the date and time at which the vehicle is present,

and includes any equipment used in conjunction with the camera or other device for the purpose of producing such a record.

(3) A document purporting to be a record or certificate of the kind described in paragraph (1) is to be deemed to be such a record or certificate unless the contrary is proved.

PART 5

Consequential amendment

Amendment of the Environmental Protection Act 1990

21. In section 87 of the EPA 1990, after subsection (4C)(**a**) insert—

"(4D) No proceedings may be instituted for an offence under subsection (1) which is a littering offence in respect of a vehicle within the meaning of section 88A(2) if—

(a) a penalty notice has been given under section 88A to the keeper of the vehicle in respect of which the offence was committed, and

(b) the fixed penalty has been paid or recovered in full.".

Name
Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about littering from vehicles in England.

Regulations 4 and 5 make provision for a litter authority (which is defined in regulation 3) to give a penalty notice to a person who is the keeper of a vehicle. The litter authority must have reason to believe that a littering offence has been committed in respect of the vehicle on the authority's land.

(**a**) Subsections (1) to (4C) were inserted by section 18 of the Clean Neighbourhoods and Environment Act 2005.

Regulation 4(5) sets out circumstances in which a penalty notice must not be given (for example where a notice under section 88(1) of the Environmental Protection Act 1990 ("the EPA 1990") (has been given to a person in respect of the same offence).

Regulation 6 makes provision about the amount of a fixed penalty. The amount of a fixed penalty in respect of a litter authority's land is the amount specified by the authority for fixed penalty notices for leaving litter. If no amount is specified, it is £100. If the fixed penalty is not paid within the fixed penalty payment period (which is defined in regulation 2), it increases by 100%.

A litter authority may make provision about early payment of a lesser amount, which discharges liability for the full amount of the fixed penalty (see regulation 6(6) to (8)). The lesser amount must not be less than £50.

Part 3 (exemptions) sets out the circumstances in which a keeper is not liable to pay a fixed penalty (for example where a notice under section 88(1) of the EPA 1990 is subsequently given to a person in respect of the same offence).

Part 4 (representations and appeals) confers a right on the person who is given a penalty notice to challenge it and sets out the procedure for this.

Part 5 (consequential amendment) contains an amendment to section 87 of the EPA 1990 with the effect that a prosecution may not be brought under that section against a person who threw etc. litter where a litter authority has required the keeper to pay a fixed penalty in respect of the offence and the penalty has been paid or recovered in full.

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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