



Clean Neighbourhoods and Environment Act 2005

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(2)(a) (reviews), in each of sub-paragraphs (i) and (ii) after “crime and disorder in the area” insert “(including anti-social and other behaviour adversely affecting the local environment)”.

2 Gating orders

In the Highways Act 1980 (c. 66), after section 129 insert—

“PART 8A

RESTRICTION OF RIGHTS OVER HIGHWAY

129A Gating orders

- (1) A council may in accordance with this Part make an order under this section in relation to any relevant highway for which they are the highway authority.
- (2) An order under this section is to be known as a “gating order”.
- (3) Before making a gating order in relation to a relevant highway the council must be satisfied that—
 - (a) premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;
 - (b) the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour; and
 - (c) it is in all the circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.
- (4) The circumstances referred to in subsection (3)(c) include—
 - (a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
 - (b) the likely effect of making the order on other persons in the locality; and
 - (c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.
- (5) In this section “relevant highway” means a highway other than—
 - (a) a special road;
 - (b) a trunk road;
 - (c) a classified or principal road;
 - (d) a strategic road, within the meaning of sections 60 and 61 of the Traffic Management Act 2004 (strategic roads in London);
 - (e) a highway of such other description as the appropriate person may by regulations prescribe.

129B Effect of gating orders

- (1) A gating order restricts, to the extent specified in the order, the public right of way over the highway to which it relates.
- (2) A gating order may in particular—
 - (a) restrict the public right of way at all times, or in respect of such times, days or periods as may be specified in the order;

- (b) exclude persons of a description specified in the order from the effect of the restriction.
- (3) A gating order may not be made so as to restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway.
- (4) A gating order may not be made so as to restrict the public right of way over a highway which is the only or principal means of access to any dwelling.
- (5) In relation to a highway which is the only or principal means of access to any premises used for business or recreational purposes, a gating order may not be made so as to restrict the public right of way over the highway during periods when those premises are normally used for those purposes.
- (6) A gating order may authorise the installation, operation and maintenance of a barrier or barriers for the purpose of enforcing the restriction provided for in the order.
- (7) A council may install, operate and maintain any barrier authorised under subsection (6).
- (8) A highway in relation to which a gating order is made shall not cease to be regarded as a highway by reason of the restriction of the public right of way under the order (or by reason of any barrier authorised under this section).
- (9) In subsection (4) “dwelling” means any building or part of a building occupied, or intended to be occupied, as a separate dwelling.

129C Procedure for gating orders

- (1) Before making a gating order in relation to a highway a council must notify the occupiers of premises adjacent to or adjoining the highway, in such manner as the appropriate person may by regulations prescribe, of—
 - (a) the proposed order; and
 - (b) the period within which they may make representations about it.
- (2) The appropriate person must by regulations make provision as to further procedure to be complied with by a council in relation to the making of a gating order.
- (3) Regulations under subsection (2) must include provision as to—
 - (a) the publication of a proposed order;
 - (b) public availability of copies of a proposed order;
 - (c) notification of persons (other than those referred to in subsection (1)) likely to be affected by a proposed order;
 - (d) the making of representations about a proposed order.
- (4) Regulations under subsection (2) may include provision—
 - (a) requiring a council to hold a public inquiry in such circumstances as may be specified in the regulations;
 - (b) permitting a council to hold a public inquiry at their discretion in such circumstances as may be so specified.

- (5) The appropriate person may by regulations specify requirements as to form and content with which a gating order must comply.

129D Validity of gating orders

- (1) A person may apply to the High Court for the purpose of questioning the validity of a gating order on the ground that—
 - (a) the council had no power to make it; or
 - (b) any requirement under this Part was not complied with in relation to it.
- (2) An application under this section must be made within a period of six weeks beginning with the date on which the gating order is made.
- (3) On an application under this section the High Court may by order suspend the operation of the gating order, or any of its provisions, until the final determination of the proceedings.
- (4) If on an application under this section the High Court is satisfied that—
 - (a) the council had no power to make the order, or
 - (b) the interests of the applicant have been substantially prejudiced by any failure to comply with a requirement under this Part,

- (3) A council may revoke a gating order made by them, if they are satisfied that the restriction imposed by the order is no longer expedient in all the circumstances for the purpose of reducing crime or anti-social behaviour.
- (4) Before varying or revoking a gating order in relation to a highway a council must notify the occupiers of premises adjacent to or adjoining the highway, in such manner as the appropriate person may by regulations prescribe, of—
 - (a) the proposed variation or revocation; and
 - (b) the period within which they may make representations about it.
- (5) The appropriate person must by regulations make further provision as to the procedure to be followed by a council in relation to the variation or revocation of a gating order.
- (6) Regulations under subsection (5) must include provision as to—
 - (a) publication of any proposed variation or revocation;
 - (b) notification of persons (other than those referred to in subsection (4)) likely to be affected by a proposed variation or revocation;
 - (c) the making of representations about a proposed variation or revocation.
- (7) Regulations under subsection (5) may include provision—
 - (a) requiring a council to hold a public inquiry in such circumstances as may be specified in the regulations;
 - (b) permitting a council to hold a public inquiry at their discretion in such circumstances as may be so specified.

129G Interpretation

For the purposes of this Part—

“anti-social behaviour” means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as himself;

“appropriate person” means—

- (a) the Secretary of State, in relation to England;
- (b) the National Assembly for Wales, in relation to Wales.”

PART 2

VEHICLES

Nuisance parking offences

3 Exposing vehicles for sale on a road

- (1) A person is guilty of an offence if at any time—
 - (a) he leaves two or more motor vehicles parked within 500 metres of each other on a road or roads where they are exposed or advertised for sale, or
 - (b) he causes two or more motor vehicles to be so left.

5 Liability of directors etc

- (1) Where an offence under section 3 or 4 committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—
 - (a) any director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person who was purporting to act in any such capacity,he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body.

Nuisance parking offences: fixed penalty notices

6 Power to give fixed penalty notices

- (1) Where on any occasion an authorised officer of a local authority has reason to believe that a person has committed an offence under section 3 or 4 in the area of that authority, the officer 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 to the local authority.
- (2) 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 the expiration of the period of fourteen days following the date of the notice; and
 - (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (3) 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.
- (4) A notice under this section must also state—
 - (a) the period during which, by virtue of subsection (2), 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.
- (5) 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 (4)(c) at the address so mentioned.
- (6) Where a letter is sent in accordance with subsection (5) 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.
- (7) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (8) The fixed penalty payable to a local authority under this section is, subject to subsection (9), £100.

- (9) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (8).
- (10) The local 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.
- (11) The appropriate person may by regulations restrict the extent to which, and the circumstances in which, a local authority may make provision under subsection (10).
- (12) In any proceedings a certificate which—
 - (a) purports to be signed on behalf of the chief finance officer of the local 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.
- (13) In this section “chief finance officer”, in relation to a local authority, means the

- (5) The appropriate person may by regulations—
 - (a) make provision for what a local authority is to do with its fixed penalty receipts—
 - (i) pending their being used for the purposes of functions of the authority referred to in subsection (2);

- (5) A statutory instrument containing an order or regulations made by the Secretary of State under this group of sections is subject to annulment in pursuance of a resolution of either House of Parliament.

Abandoned vehicles

10 Offence of abandoning a vehicle: fixed penalty notices

In the Refuse Disposal (Amenity) Act 1978 (c. 3), after section 2 (offence of unauthorised abandonment of vehicles etc) insert—

“2A Fixed penalty notices for offence of abandoning vehicles

- (1) Where on any occasion it appears to an authorised officer of a local authority that a person has committed an offence under section 2(1)(a) above in the area of that authority, the officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the authority.
- (2) Where a person is given a notice under this section in respect of an

- (c) its functions relating to the enforcement of sections 3 and 4 of the Clean Neighbourhoods and Environment Act 2005; and
 - (d) such other of its functions as may be specified in regulations made by the appropriate person.
- (3) Regulations under subsection (2)(d) above may in particular have the effect that a local authority may use its fixed penalty receipts for the purposes of any of its functions.
- (4) A local authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.
- (5) The appropriate person may by regulations—
 - (a) make provision for what a local authority is to do with its fixed penalty receipts—
 - (i) pending their being used for the purposes of functions of the authority referred to in subsection (2) above;
 - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
 - (b) make provision for accounting arrangements in respect of a local authority's fixed penalty receipts.
- (6) The provision that may be made under subsection (5)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.
- (7) Before making regulations under this section, the appropriate person must consult—
 - (a) the authorities to which the regulations are to apply;

- (3) Omit subsection (4) (requirement to give notice of removal of vehicle which

leaving litter), for subsections (1) to (4) substitute—

- “(1) A person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it.
- (2) This section applies to any place in the area of a principal litter authority which is open to the air, subject to subsection (3) below.
- (3) This section does not apply to a place which is “open to the air” for the purposes of this Part by virtue of section 86(13) above if the public does not have access to it, with or without payment.
- (4) It is immaterial for the purposes of this section whether the litter is deposited on land or in water.
- (4A) No offence is committed under subsection (1) above where the depositing of the litter is—
 - (a) authorised by law; or
 - (b) done by or with the consent of the owner, occupier or other person having control of the place where it is deposited.
- (4B) A person may only give consent under subsection (4A)(b) above in relation to the depositing of litter in a lake or pond or watercourse if he is the owner, occupier or other person having control of—
 - (a) all the land adjoining that lake or pond or watercourse; and
 - (b) all the land through or into which water in that lake or pond or watercourse directly or indirectly discharges, otherwise than by means of a public sewer.
- (4C) In subsection (4B) above, “lake or pond”, “watercourse” and “public sewer” have the same meanings as in section 104 of the Water Resources Act 1991.”

lesser amount is paid before the end of a period specified by the authority.”

(3) After subsection (8) insert—

“(8A) If an authorised officer of a litter authority proposes to give a person a notice under this section, the officer may require the person to give him his name and address.

- (2) Before serving a litter clearing notice in relation to any land a principal litter authority must be satisfied that the land is defaced by litter or refuse so as to be detrimental to the amenity of the locality.
- (3) A litter clearing notice is to require the person on whom it is served—
 - (a) to clear the land of the litter or refuse; and
 - (b) if the principal litter authority is satisfied that the land is likely to become defaced by litter or refuse again, to take reasonable steps to prevent it from becoming so defaced.
- (4) A litter clearing notice must be served on—
 - (a) the occupier of the land to which it relates; or
 - (b) if the land is not occupied, the owner.
- (5) A litter clearing notice imposing a requirement under subsection (3)(a) above may specify—
 - (a) a period within which the requirement must be complied with;
 - (b) standards of compliance.
- (6) A period specified under subsection (5)(a) above may not be less than 28 days beginning with the day on which the notice is served.
- (7) A principal litter authority must, in discharging its functions under this section, have regard to any guidance given to the authority by the appropriate person.
- (8) The form and content of a litter clearing notice is to be such as the appropriate person may by order specify.
- (9) Where a principal litter authority proposes to serve a litter clearing notice in respect of any land but is unable after reasonable enquiry to ascertain the name or proper address of the occupier of the land (or, if the land is unoccupied, the owner)—
 - (a) the authority may post the notice on the land (and may enter any land to the extent reasonably necessary for that purpose), and
 - (b) the notice is to be treated as having been served upon the occupier (or, if the land is unoccupied, the owner) at the time

92B Appeals against litter clearing notices

- (1) A person on whom a litter clearing notice is served under section 92A above may appeal against it to a magistrates' court in accordance with the provisions of this section.
- (2) An appeal under this section must be made within a period of 21 days beginning with the day on which the notice is served.
- (3) The grounds on which an appeal under this section may be made are that—
 - (a) there is a material defect or error in, or in connection with, the notice;
 - (b) the notice should have been served on another person;
 - (c) the land is not defaced by litter or refuse so as to be detrimental to the amenity of the locality;
 - (d) the action required is unfair or unduly onerous.
- (4) A notice against which an appeal under this section is made is of no effect pending the final determination or withdrawal of the appeal.
- (5) On the determination of an appeal under this section, the magistrates'

section and section 94 below as if it were premises situated at that place having a frontage on that street in the place where it is parked or set.

- (3B) In subsection (3A) above, “vehicle” means any vehicle intended or adapted for use on roads.”
- (2) In section 94 of that Act (supplementary provisions in relation to street litter control notices), in subsection (4)(b) after “so specified” insert “(including the standards to which any such thing must be done)”.
- (3) In that section, for subsections (8) and (9) substitute—
- “(8) A person commits an offence if, without reasonable excuse, he fails to comply with a requirement imposed on him by a notice.
- (9) A person guilty of an offence under subsection (8) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

22 Failure to comply with notice: fixed penalty notices

After section 94 of the Environmental Protection Act 1990 (c. 43) insert—

“94A Fixed penalty notices relating to sections 92C and 94

- (1) This section applies where on any occasion it appears to an authorised officer of a principal litter authority that a person has committed an offence under section 92C(2) or 94(8) above in relation to a notice served by that authority.
- (2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the principal litter authority.
- (3) Subsections (2) to (5) of section 88 above (fixed penalty notices for leaving litter) apply in relation to notices given under this section as they apply in relation to notices given under that section.
- (4) The amount of a fixed penalty payable to a principal litter authority under this section is—
- (a) the amount specified by the authority in relation to its area (and an authority may specify different amounts for the two different offences referred to in subsection (1) above); or
- (b) if no amount is so specified, £100.
- (5) The principal litter 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.
- (6) In any proceedings a certificate which—
- (a) purports to be signed by or on behalf of the chief finance officer of a principal litter authority; and

“authorised officer”, in relation to a principal litter authority, means an officer of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;

“chief finance officer”, in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority.”

Free distribution of printed matter

placing it on or affixing it to vehicles, but does not include putting it inside a building or letter-box;

(b) printed matter is “free” if it is distributed without charge to the persons to whom it is distributed.

(7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981).

Designation

2 (1) A principal litter authority may by order in accordance with this paragraph designate land in its area for the purposes of section 27(4)(b) of the Act.

- (b) the date referred to in sub-paragraph (5)(b) above.
- (8) A principal litter authority may at any time revoke an order under sub-paragraph (1) above in respect of any land to which the order relates.
- (9) A principal litter authority must—
 - (a) publish a notice of any revocation under sub-paragraph (8) above in at least one newspaper circulating in an area which includes the land in question; and
 - (b) post such a notice on the land.
- (10) Sub-paragraph (1) above does not apply to an English county council for an area for which there is a district council.

Consent and conditions

- 3 (1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.
- (2) Consent under this paragraph may be given without limitation or may be limited—
 - (a) by reference to the material to be distributed;
 - (b) by reference to a particular period, or particular times or dates;
 - (c) by reference to any part of the designated land;
 - (d) to a particular distribution.
- (3) A principal litter authority need not give consent under this paragraph to any applicant where it considers that the proposed

- (a) he has failed to comply with any condition subject to which it was given; or
 - (b) he is convicted of an offence under paragraph 1 above or pays a fixed penalty under paragraph 7 below.
- (8) Any condition imposed under this paragraph in relation to any consent may be varied or revoked by notice given to the person to whom the consent was given.

Fees

- 4 (1) A principal litter authority may require the payment of a fee before giving consent under paragraph 3 above.

- (4) Any printed matter seized under this paragraph (and not released under sub-paragraph (3) above) must be returned to the person from whom it is seized—

- (b) he gives a false or inaccurate name or address in response to a requirement under that sub-paragraph.
- (9) A person guilty of an offence under sub-paragraph (8) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this paragraph, “chief finance officer”, in relation to a principal litter authority, means the person having responsibility for the financial affairs of that authority.

Supplementary

- 8 In this Schedule “authorised officer”, in relation to a principal litter authority, means—
- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under paragraph 7 above;
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.”

General

24 Fixed penalty notices: common provision

After section 97 of the Environmental Protection Act 1990 (c. 43) insert—

“97A Fixed penalty notices: supplementary

- (1) The appropriate person may by regulations make provision in connection with the powers conferred under—
 - (a) section 88(6A)(a) and (7) above;
 - (b) section 94A(4)(a) and (5) above;
 - (c) paragraph 7(4)(a) and (5) of Schedule 3A.
- (2) Regulations under subsection (1) may (in particular)—
 - (a) require an amount specified under section 88(6A)(a), 94A(4)(a) or paragraph 7(4)(a) of Schedule 3A to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, an authority can make provision under section 88(7), 94A(5) or paragraph 7(5) of Schedule 3A.
- (3) The appropriate person may by order substitute a different amount for the amount for the time being specified in section 88(6A)(b), 94A(4)(b) or paragraph 7(4)(b) of Schedule 3A.
- (4) Regulations or an order under this section may make different provision for different purposes.”

25 Exclusion of liability

In the Environmental Protection Act 1990 (c. 43), after section 97A (as inserted

PART 4

GRAFFITI AND OTHER DEFACEMENT

Graffiti and fly-posting

28 Fixed penalty notices: amount of fixed penalty

(1) In section 43 of the Anti-social Behaviour Act 2003 (c. 38) (penalty notices for graffiti and fly-posting) omit subsections (10) and (11).

(2) After that section insert—

“43A Amount of penalty

(1) The amount of a penalty payable in pursuance of a notice under section 43(1)—

- (a) is the amount specified by a relevant local authority in relation to its area (whether or not the penalty is payable to that or another authority), or
- (b) if no amount is so specified, is £75.

(2) In subsection (1)(a), “relevant local 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) a London borough council;
- (d) the Common Council of the City of London;
- (e) the Council of the Isles of Scilly;
- (f) a county or county borough council in Wales.

(3) The local authority to which a penalty is payable in pursuance of a notice under section 43(1) 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.

(4) The appropriate person may by regulations make provision in connection with the powers conferred under subsections (1)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—

- (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
- (b) restrict the extent to which, and the circumstances in which, a local authority can make provision under subsection (3).

(6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).”

29 Fixed penalty notices: power to require name and address

After section 43A of the Anti-social Behaviour Act 2003 (c. 38) (as inserted by

section 28 above) insert—

“43B Penalty notices: power to require name and address

- (1) If an authorised officer of a local authority proposes to give a person a notice under section 43(1), the officer may require the person to give him his name and address.
- (2) A person commits an offence if—
 - (a) he fails to give his name and address when required to do so under subsection (1), or
 - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

30 Fixed penalty notices: authorised officers

- (1) In section 47 of the Anti-social Behaviour Act 2003 (c. 38) (interpretation etc), in subsection (1), for the definition of “authorised officer” substitute—

““authorised officer”, in relation to a local authority, means—

 - (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under section 43(1);
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices,”.
- (2) In that section, at the end insert—
 - “(4) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a parish or community council may authorise him in writing for the purpose of giving notices under section 43(1).”

31 Extension of graffiti removal notices to fly-posting

- (1) Section 48 of the Anti-social Behaviour Act 2003 (c. 38) (graffiti removal notices) is amended as follows.
- (2) In subsection (1)(a) (section to apply where a relevant surface has been defaced by graffiti), after “graffiti” insert “or any poster or flyer the display of which contravenes regulations under section 220 of the Town and Country Planning Act 1990”.

32 Sale of aerosol paint to children

In the Anti-social Behaviour Act 2003 (c. 38), after section 54 (sale of aerosol

- (9) Where an authorised officer or constable has stopped a vehicle under subsection (5) above, he may (in addition to any requirement that may be imposed under paragraph (a) of subsection (2) above) require any occupant of the vehicle to give him—
 - (a) the occupant's name and address;
 - (b) the name and address of the registered owner of the vehicle;
 - (c) any other information he may reasonably request.
- (10) A person commits an offence if—
 - (a) he fails without reasonable excuse to comply with a requirement under subsection (9) above;
 - (b) he gives information required under that subsection that is—
 - (i) to his knowledge false or misleading in a material way,
or
 - (ii) given recklessly and is false or misleading in a material way.
- (11) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

5A Seizure of vehicles etc: supplementary

- (1) Where under section 5 above an authorised officer of a regulation authority or a constable seizes a vehicle or its contents ("seized property") on behalf of a regulation authority, the authority may remove the seized property to such a place as the authority consider appropriate.
- (2) A regulation authority must deal with any seized property in accordance with regulations made by the appropriate person.
- (3) Regulations under subsection (2) above may in particular include provision as to—
 - (a) the duties of a regulation authority in relation to the safe custody of seized property;
 - (b) the circumstances in which the authority must return any such

- (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 regulation 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, a regulation 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 regulation 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 a regulation authority, means the person having responsibility for the financial affairs of the authority.

5C Use of fixed penalties under section 5B

- (1) This section applies in relation to amounts paid to a regulation authority in pursuance of notices under section 5B above (its “fixed penalty receipts”).
- (2) Fixed penalty receipts—
 - (a) where received by the Environment Agency, must be paid to the Secretary of State;
 - (b) where received by a waste collection authority, must be used in accordance with the following provisions of this section.
- (3) A waste collection authority may use its fixed penalty receipts only for the purposes of—
 - (a) its functions under section 5 above (including functions relating to the enforcement of offences under that section);
 - (b) such other of its functions as may be specified in regulations made by the appropriate person.
- (4) Regulations under subsection (3)(b) above may in particular have the effect that an authority may use its fixed penalty receipts for the purposes of any of its functions.
- (5) A waste collection authority must supply the appropriate person with such information relating to its use of its fixed penalty receipts as the appropriate person may require.
- (6) The appropriate person may by regulations—
 - (a) make provision for what a waste collection authority is to do with its fixed penalty receipts—
 - (i) pending their being used for the purposes of functions of the authority referred to in subsection (3) above;
 - (ii) if they are not so used before such time after their receipt as may be specified by the order;

- (b) make provision for accounting arrangements in respect of a waste collection authority's fixed penalty receipts.
- (7) The provision that may be made under subsection (6)(a)(ii) above includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.
- (8) Before making regulations under this section, the appropriate person must consult—
 - (a) the authorities to which the regulations are to apply;
 - (b) such other persons as the appropriate person thinks fit.
- (9) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003, to be regarded as included among the powers mentioned in subsection (2) of that section."

39 Interpretation

- (1) Section 9 of the Control of Pollution (Amendment) Act 1989 (c. 14) (interpretation) is amended as follows.
- (2) In subsection (1), at the appropriate place insert—
 - “appropriate person” means—
 - (a) the Secretary of State, in relation to England;
 - (b) the National Assembly for Wales, in relation to Wales.”
- (3) After subsection (1A) insert—
 - “(1B) For the purposes of any provision of this Act, “authorised officer” in relation to any authority means an officer of the authority who is authorised in writing by the authority for the purposes of that provision.”

CHAPTER 2

DEPOSIT AND DISPOSAL OF WASTE

Offence of unlawful deposit of CnR11.8(—3n)i40Tr0.238.5s.8(SAL285.156 Tm0.00J1

- (2) The reference in section 130(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000 (compensation orders) to loss or damage resulting from the offence includes costs incurred or to be incurred by a relevant person in—
- (a) removing the waste deposited or disposed of in or on the land;
 - (b) taking other steps to eliminate or reduce the consequences of the deposit or disposal; or
 - (c) both.
- (3) In subsection (2) above “relevant person” means—
- (a) the Environment Agency;

- (3) An order under this section operates to deprive the offender of his rights in the vehicle (including its fuel) at the time of his conviction and to vest those rights in the relevant enforcement authority.
- (4) In a case where a vehicle has been seized under section 34B below and the offender retains rights in any of the vehicle's contents, an order under this section may, if and to the extent that it so specifies, deprive the offender of those rights and vest them in the relevant enforcement authority.
- (5) Where an order under this section is made, the relevant enforcement authority may take possession of the vehicle (if it has not already done so under section 34C below).
- (6) The court may make an order under this section whether or not it also deals with the offender in any other way in respect of the offence of which he is convicted.
- (7) In considering whether to make an order under this section a court must in particular have regard to—
 - (a) the value of the vehicle;
 - (b) the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making);
 - (c) the offender's need to use the vehicle for lawful purposes;
 - (d) whether, in a case where it appears to the court that the offender is engaged in a business which consists wholly or partly in activities which are unlawful by virtue of section 33 above, the making of the order is likely to inhibit the offender from engaging in further such activities.
- (8) Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (power to deprive offender of property) does not apply in any case where this section applies.
- (9) For the purposes of this section, where a vehicle or its contents have

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

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.”

Offences: powers of seizure

46 Power to search and seize vehicles

- (1) After section 34A of the Environmental Protection Act 1990 (c. 43) (as inserted by section 45 above), insert—

“Offences under sections 33 and 34: powers of seizure etc

34B Power to search and seize vehicles etc

- (1) This section applies where an authorised officer of an enforcement authority or a constable

- (a) stop the vehicle (but only a constable in uniform may stop a vehicle on any road);
 - (b) enter any premises for the purpose of searching or seizing the vehicle.
- (6) A vehicle or its contents seized under subsection (4) above—
- (a) by an authorised officer of an enforcement authority, are seized on behalf of that authority;
 - (b) by a constable in the presence of an authorised officer of an enforcement authority, are seized on behalf of that authority;
 - (c) by a constable without such an officer present, are seized on behalf of the waste collection authority in whose area the seizure takes place.
- (7) A person commits an offence if—
- (a) he fails without reasonable excuse to give any assistance that an authorised officer or constable may reasonably request in the exercise of a power under subsection (4) or (5) above;
 - (b) he otherwise intentionally obstructs an authorised officer or constable in exercising that power.
- (8) Where an authorised officer or constable has stopped a vehicle under subsection (5)(a) above, he may require any occupant of the vehicle to give him—
- (a) the occupant’s name and address;
 - (b) the name and address of the registered owner of the vehicle;
 - (c) any other information he may reasonably request.
- (9) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement under subsection (8) above;
 - (b) he gives information required under that subsection that is—
 - (i) to his knowledge false or misleading in a material way, or
 - (ii) given recklessly and is false or misleading in a material way.
- (10) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) In this section and section 34C below—
- “authorised officer” means an officer of an enforcement authority who is authorised in writing by the authority for the purposes of this section;
 - “enforcement authority” means—
 - (a) the Environment Agency, or
 - (b) a waste collection authority;
 - “road” has the same meaning as in the Road Traffic Regulation Act 1984;
 - “vehicle” means any motor vehicle or trailer within the meaning of that Act or any mobile plant.

34C Seizure of vehicles etc: supplementary

- (1) Where under section 34B above an authorised officer or constable

Local authority waste collection and disposal

47 Abolition of requirement to contract out waste disposal functions

Section 32 of and Schedule 2 to the Environmental Protection Act 1990 (c. 43) (power to require local authorities to transfer waste disposal functions etc to specially formed companies) shall cease to have effect.

48 Offences relating to waste receptacles: fixed penalty notices

In the Environmental Protection Act 1990, after section 47 (receptacles for commercial or industrial waste) insert—

“47ZA Fixed penalty notices for offences under sections 46 and 47

- (1) This section applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 or 47 above in the area of that authority

- (a) purports to be signed on behalf of the chief finance officer of the waste collection 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.

(10) In this section—

“authorised officer”, in relation to a waste collection authority, means—

- (a) an employee of the authority who is authorised in writing by the authority for the purposes of giving notices under this section;
- (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function;
- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;

“chief finance officer”, in relation to a waste collection authority, means the person having responsibility for the financial affairs of the authority.

47ZB Amount of fixed penalty under section 47ZA

- (1) This section applies in relation to a fixed penalty payable to a waste collection authority in pursuance of a notice under section 47ZA above.
- (2) The amount of the fixed penalty—
 - (a) is the amount specified by the waste collection authority in relation to the authority’s area, or
 - (b) if no amount is so specified, is £100.
- (3) The waste collection authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred on waste collection authorities under subsections (2)(a) and (3) above.
- (5) Regulations under subsection (4) may (in particular)—
 - (a) require an amount specified under subsection (2)(a) above to fall within a range prescribed in the regulations;
 - (b) restrict the extent to which, and the circumstances in which, a waste collection authority can make provision under subsection (3) above.

- (9) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003, to be regarded as included among the powers mentioned in subsection (2) of that section.”

53 Supplementary enforcement powers

In section 108 of the Environment Act 1995 (c. 25) (powers of enforcing authorities etc), in subsection (15), in the definition of “pollution control functions” in relation to a waste collection authority, for “conferred on it by section 59” substitute “conferred or imposed on it by or under Part 2”.

CHAPTER 3

SITE WASTE

54 Site waste management plans

- (1) The appropriate person may by regulations make provision requiring persons of a specified description—
- (a) to prepare plans for the management and disposal of waste created in the course of specified descriptions of works involving construction or demolition;
 - (b) to comply with such plans.
- (2) Descriptions of works that may be specified under subsection (1)(a) include in particular description by reference to the cost or likely cost of such works.
- (3) Regulations under this section may make supplementary and incidental provision, including in particular provision as to—
- (a) the circumstances in which plans must be prepared;
 - (b) the contents of plans;
 - (c) enforcement authorities in relation to plans and the powers of such authorities;
 - (d) the keeping of plans and their production to enforcement authorities;
 - (e) offences in relation to a failure to comply with a requirement under the regulations;
 - (f) penalties for those offences;
 - (g) the discharging of liability for an offence under the regulations by the payment of a fixed penalty to an enforcement authority;
 - (h) the uses to which such payments may be put by enforcement

- (7) A statutory instrument containing regulations made by the Secretary of State under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The appropriate person may give guidance to persons who are enforcement authorities under subsection (3)(c) in relation to the powers conferred on them under that provision.
- (9) In this section—
 - “appropriate person” means—
 - (a) in relation to works in England, the Secretary of State;
 - (b) in relation to works in Wales, the National Assembly for Wales;
 - “specified” means specified in regulations under this section.

PART 6

DOGS

CHAPTER 1

CONTROLS ON DOGS

Dog control orders

55 Power to make dog control orders

- (1) A primary or secondary authority may in accordance with this Chapter make an order providing for an offence or offences relating to the control of dogs in respect of any land in its area to which this Chapter applies.
- (2) An order under subsection (1) is to be known as a “dog control order”.
- (3) For the purposes of this Chapter an offence relates to the control of dogs if it relates to one of the following matters—
 - (a) fouling of land by dogs and the removal of dog faeces;
 - (b) the keeping of dogs on leads;
 - (c) the exclusion of dogs from land;
 - (d) the number of dogs which a person may take on to any land.
- (4) An offence provided for in a dog control order must be an offence which is prescribed for the purposes of this section by regulations made by the appropriate person.
- (5) Regulations under subsection (4) may in particular—
 - (a) specify all or part of the wording to be used in a dog control order for the purpose of providing for any offence;
 - (b) permit a dog control order to specify the times at which, or periods during which, an offence is to apply;
 - (c) provide for an offence to be defined by reference to failure to comply with the directions of a person of a description specified in the regulations.
- (6) A dog control order may specify the land in respect of which it applies specifically or by description.

- (7) A dog control order may be revoked or amended by the authority which made it; but this Chapter applies in relation to any amendment of a dog control order as if it were the making of a new order.

56 Dog control orders: supplementary

- (1) The appropriate person must by regulations prescribe the penalties, or

- (f) a county or county borough council in Wales.
- (2) Each of the following is a “secondary authority” for the purposes of this Chapter—
 - (a) a parish council in England;
 - (b) a community council in Wales.
- (3) The appropriate person may by order designate any person or body exercising functions under an enactment as a secondary authority for the purposes of this Chapter in respect of an area specified in the order.

Fixed penalty notices

59 Fixed penalty notices

- (1) This section applies where on any occasion—
 - (a) an authorised officer of a primary or secondary authority has reason to believe that a person has committed an offence under a dog control order made by that authority; or
 - (b) an authorised officer of a secondary authority has reason to believe that a person has in its area committed an offence under a dog control order made by a primary authority.
- (2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (3) A fixed penalty payable under this section is payable to the primary or secondary authority whose officer gave the notice.
- (4) 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 the expiration of the period of fourteen days following the date of the notice; and
 - (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (5) 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.
- (6) A notice under this section must also state—
 - (a) the period during which, by virtue of subsection (4), 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.
- (7) 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 (6)(c) at the address so mentioned.
- (8) Where a letter is sent in accordance with subsection (7) payment is to be

- (9) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (10) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer of a primary or secondary 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.
- (11) In this section—
- “authorised officer”, in relation to a primary or secondary authority, means—
 - (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;
 - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
 - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;
 - “chief finance officer”, in relation to a primary or secondary authority, means the person having responsibility for the financial affairs of the authority.
- (12) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a secondary authority may authorise him in writing for the purpose of giving notices under this section.

60 Amount of fixed penalties

- (1) The amount of a fixed penalty payable to a primary or secondary authority in pursuance of a notice under section 59 in respect of an offence under a dog control order—
- (a) is the amount specified by the authority which made the order;
 - (b) if no amount is so specified, is £75.
- (2) A primary or secondary authority may under subsection (1)(a) specify different amounts in relation to different offences.
- (3) A primary or secondary authority may make provision for treating a fixed penalty payable to that authority in pursuance of a notice under section 59 as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with

- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

61 Power to require name and address

- (1) If an authorised officer of a primary or secondary authority proposes to give a

- (2) Where the area of an authority designated as a secondary authority under section 58(3) is to any extent the same as that of a parish or community council, subsection (1) applies in relation to orders made by the designated authority and that council as if the council were a primary authority.

64 Byelaws

- (1) Where, apart from this subsection, a primary or secondary authority has at any time power to make a byelaw in relation to any matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land, it may not make such a byelaw if at that time it has power under this Chapter to make a dog control order as respects that land in relation to the matter specified in that paragraph.
- (2) Subsection (1) does not affect any byelaw which the authority had power to make at the time it was made.
- (3) Where a dog control order is made in relation to any matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land, any byelaw previously made by a primary or secondary authority which has the effect of making a person guilty of any offence in relation to the matter specified in that paragraph as respects that land shall cease to have that effect.
- (4) Where any act or omission would, apart from this subsection, constitute an offence under a dog control order and any byelaw, the act or omission shall not constitute an offence under the byelaw.

65 Dogs (Fouling of Land) Act 1996

The Dogs (Fouling of Land) Act 1996 (c. 20) shall cease to have effect.

General

66 “Appropriate person”

In this Chapter, “appropriate person” means—

- (a) the Secretary of State, in relation to England;
- (b) the National Assembly for Wales, in relation to Wales.

67 Regulations and orders

- (1) Any power conferred by this Chapter on the Secretary of State or National

- (6) If a local authority decides to designate an area as an alarm notification area it must—
 - (a) arrange for notice of the decision to be published in a newspaper circulating in the area, and
 - (b) send a copy of the notice to the address of all premises in the area.
- (7) The notice must specify the date on which the designation is to have effect.
- (8) The date specified must be at least 28 days after the date on which the notice is published in accordance with subsection (6)(a).
- (9) If a local authority decides not to designate an area as an alarm notification area it must arrange for notice of the decision to be published in a newspaper circulating in the area.

70 Withdrawal of designation

- (1) A local authority which has designated an area as an alarm notification area may withdraw the designation.
- (2) If a local authority decides to withdraw a designation of an area as an alarm notification area, it must—
 - (a) arrange for notice of the decision to be published in a newspaper circulating in the area, and
 - (b) send a copy of the notice to the address of all premises in the area.
- (3) The notice must specify the date on which the withdrawal of the designation is to have effect.

71 Notification of nominated key-holders

- (1) This section and section 72 apply in relation to premises if—
 - (a) the premises are in an area designated by a local authority as an alarm notification area, and
 - (b) an audible intruder alarm has been installed in or on the premises.
- (2) The responsible person must—
 - (a) nominate a key-holder in respect of the premises in accordance with section 72;
 - (b) notify the local authority in writing before the end of the required period of the name, address and telephone number of the key-holder nominated in respect of the premises in accordance with that section.
- (3) The required period for the purposes of subsection (2)(b) is the period before the end of which the key-holder is required to be nominated in accordance with section 72.
- (4) A person commits an offence if he fails to comply with a requirement of subsection (2).
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

72 Nomination of key-holders

- (1) The responsible person must before the end of the required period nominate a person as a key-holder in respect of the premises.
- (2) The required period for the purposes of subsection (1) is—
 - (a) if the alarm was installed before the date on which the designation of the area had effect, the period of 28 days starting with that date;
 - (b) if the alarm was installed on or after that date, the period of 28 days starting with the date on which the installation was completed.
- (3) A person may be nominated as a key-holder in respect of premises under this section only if—
 - (a) he holds keys sufficient to enable him to gain access to the part of the premises in which the controls for the alarm are situated;
 - (b) he normally resides or is situated in the vicinity of the premises;
 - (c) he has information sufficient to enable him to silence the alarm;
 - (d) he agrees to be a nominated key-holder in respect of the premises;
 - (e) where the premises are residential premises, he falls within subsection (4);

73 Offences under section 71: fixed penalty notices

- (1) This section applies if it appears to an authorised officer of a local authority that a person has committed an offence under section 71(4) in the area of the local authority.
- (2) The officer may give the person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (3) If a person is given a notice under this section in respect of an offence—
 - (a) no proceedings may be instituted for the offence before the end of the period of 14 days starting with the day after that on which the notice is given, and

- (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;
“chief finance officer”, in relation to a local authority, is the person having responsibility for the financial affairs of the authority.

74 Amount of fixed penalty

- (1) This section applies in relation to a penalty payable to a local authority in pursuance of a notice under section 73.
- (2) The amount of the penalty is—
- (a) the amount specified by the local authority in relation to its area, or
 - (b) if no amount is so specified, £75.

- (4) The officer may not enter premises by force under this section.
- (5) The officer must, if required, show evidence of his authority to act under this section.
- (6) In this section—
 - “authorised officer” means an officer of a local authority who is authorised by the authority (generally or specifically) for the purposes of this section;
 - “nominated key-holder”, in respect of premises in the area of a local authority, means a person in respect of whom the authority has received notification in accordance with section 71(2)(b).

78 Warrant to enter premises by force

- (1) This section applies if, on an application made by an authorised officer of a local authority, a justice of the peace is satisfied—
 - (a) that the conditions in section 77(2)(a) and (b) are met in relation to an audible intruder alarm installed in or on premises in the area of the local authority,
 - (b) if the premises are in an alarm notification area, that the condition in section 77(2)(c) is met, and
 - (c) that the officer is unable to gain entry to the premises without the use of force.
- (2) The justice of the peace may issue a warrant authorising the officer to enter the premises, using reasonable force if necessary, for the purpose of silencing the alarm.
- (3) Before applying for a warrant under this section, the officer must leave a notice at the premises stating—
 - (a) that the officer is satisfied that the sounding of the alarm is likely to give

- (4) The officer and any person who enters the premises with him by virtue of

“local 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) a London borough council;
- (d) the Common Council of the City of London;
- (e) the Council of the Isles of Scilly;
- (f) a county or county borough council in Wales;

“the occupier” in respect of premises means (subject to subsection (2))—

- (a) a person occupying the premises, or
- (b) if the premises are unoccupied, a person entitled to occupy the premises (other than the owner);

“premises” does not include a vehicle;

“the responsible person” in respect of premises means—

- (a) the occupier, or
- (b) if there is no occupier, the owner.

- (2) The fact that a person is occupying premises is to be disregarded for the purposes of this Chapter if—
 - (a) the premises comprise a building that is being erected, constructed, altered, improved, maintained, cleaned or repaired,
 - (b) the person is occupying the premises in connection with the erection, construction, alteration, improvement, maintenance, cleaning or repair, and
 - (c) the person is doing so by virtue of a licence granted for less than four weeks.

CHAPTER 2

GENERAL

Noise from premises

82 Noise offences: fixed penalty notices

- (1) In section 8 of the Noise Act 1996 (c. 37) (fixed penalty notices), omit subsection (8) (amount of fixed penalty).
- (2) After that section insert—
 - “8A Amount of fixed penalty
 - (1) This section applies in relation to a fixed penalty payable to a local authority in pursuance of a notice under section 8.
 - (2) The amount of the fixed penalty—
 - (a) is the amount specified by the local authority in relation to the authority’s area, or
 - (b) if no amount is so specified, is £100.
 - (3) The local authority may make provision for treating the fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the authority.

Clean Neighbourhoods and Environment Act 2005 (c. 16)
Part 7 — Noise

- (b) make different provision in relation to different local authorities or descriptions of local authority.”

84 Extension of Noise Act 1996 to licensed premises etc

Schedule 1 (which makes provision amending the Noise Act 1996 (c. 37) so that it applies to licensed premises etc) has effect.

85 Noise Act 1996: supplementary

- (1) Section 11 of the Noise Act 1996 (interpretation and subordinate legislation) is amended as follows.
- (2) After subsection (2) insert—
 - “(2A) In this Act “appropriate person” means—
 - (a) the Secretary of State, in relation to England;
 - (b) the National Assembly for Wales, in relation to Wales.”
- (3) In subsection (3), after “section 14” insert “or an order or regulations made solely by the National Assembly for Wales”.

Statutory noise nuisances

86 Deferral of duty to serve abatement notice

In section 80 of the Environmental Protection Act 1990 (c. 43) (summary proceedings for statutory nuisances), at the beginning of subsection (1) insert “Subject to subsection (2A)” and after subsection (2) insert—

- “(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall—
 - (a) serve an abatement notice in respect of the nuisance in

- (2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance.”

PART 8

ARCHITECTURE AND THE BUILT ENVIRONMENT

Commission for Architecture and the Built Environment

87 The Commission for Architecture and the Built Environment

- (1) There is to be a body corporate to be known as the Commission for Architecture and the Built Environment (in this Part referred to as “the Commission”).
- (2) Schedule 2 makes further provision about the Commission.

88 General functions of the Commission

- (1) The functions of the Commission are the promotion of education and high standards in, and understanding and appreciation of—
 - (a) architecture, and
 - (b) the design, management and maintenance of the built environment.
- (2) The Commission must discharge its functions in relation to England and may also discharge them in relation to any other place it thinks appropriate.
- (3) The Commission may, for any purpose connected with the discharge of its functions—
 - (a) provide, or assist in the provision of, public works, services and amenities;
 - (b) take any other steps it thinks appropriate.
- (4) The steps that the Commission has power to take under subsection (3)(b) include in particular—
 - (a) providing advice and developing and reviewing projects (whether or not it is requested to do so);
 - (b) providing financial assistance;
 - (c) carrying out or supporting the carrying out of research;
 - (d) commissioning or assisting in the commissioning of works of art;
 - (e) establishing and administering charities;
 - (f) inviting and accepting financial assistance and gifts (financial or otherwise);
 - (g) entering into funding or other arrangements or agreements;
 - (h) exploiting intellectual property or any other intangible asset;
 - (i) making investments, subject to subsection (5);
 - (j) acquiring or disposing of land, subject to subsection (6);
 - (k) forming or participating in the formation of bodies corporate, subject to subsection (6).
- (5) The Commission may make an investment only if the form or manner of the investment has been approved by the Secretary of State.

- (b) make provision enabling a person to receive anything transferred under paragraph (a) (despite any provision which would otherwise prevent, penalise or restrict it);
 - (c) provide for the transfer of some or all of the functions of the Commission to another person;
 - (d) establish a body corporate;
 - (e) provide for anything done by or in relation to the Commission to have effect as if done by or in relation to another person;
 - (f) permit anything (which may include legal proceedings) which is in the process of being done by or in relation to the Commission when a transfer takes effect, to be continued by or in relation to another person;
 - (g) provide for a reference to the Commission in an enactment, instrument or other document to be treated as a reference to another person.
- (3) The Secretary of State may not make an order under this section providing for the transfer of property, rights, liabilities or functions to a person unless the person has consented to the transfer.
- (4) An order under this section which transfers rights and liabilities relating to employees of the Commission must make provision for the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794) to apply to that transfer.

91 Dissolution of the old Commission

- (1) The company limited by guarantee with registered number 3831652 and the company name “Commission for Architecture and the Built Environment” (in this Part referred to as “the old Commission”) is dissolved.
- (2) The Secretary of State must inform the registrar of companies of the dissolution

fixed assets) as involving any realisation of an asset by the old Commission or

- (5) A statutory instrument containing an order under paragraph 2(4) of Schedule 2 is subject to annulment in pursuance of a resolution of either House of Parliament.

PART 9

MISCELLANEOUS

Use of fixed penalty receipts

96 Use of fixed penalty receipts: higher tier authorities

- (1) This section applies in relation to—
- (a) amounts paid to an authority, other than a parish or community council, in pursuance of notices under sections 88 and 94A of and paragraph 7 of Schedule 3A to the Environmental Protection Act 1990 (c. 43);
 - (b) amounts paid to an authority, other than a parish or community council, in pursuance of notices under section 43(1) of the Anti-social Behaviour Act 2003 (c. 38);
 - (c) amounts paid to a primary authority, within the meaning of Chapter 1 of Part 6 above, in pursuance of notices under section 59 above.
- (2) The amounts to which this section applies which are paid to an authority are in this section called the authority's "fixed penalty receipts".
- (3) An authority may use its fixed penalty receipts only for the purposes of qualifying functions of the authority.
- (4) For the purposes of this section the "qualifying functions" of an authority are—
- (a) its functions under Part 4 of the Environmental Protection Act 1990;
 - (b) its functions under section 43 of the Anti-social Behaviour Act 2003;
 - (c) its functions under Chapter 1 of Part 6 above; and
 - (d) such other of its functions as may be specified in regulations made by the appropriate person.
- (5) Regulations under subsection

- (8) The provision that may be made under subsection (7)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.
- (9) Before making regulations under this section, the appropriate person must consult—
 - (a) the authorities to which the regulations are to apply;
 - (b) such other persons as the appropriate person thinks fit.
- (10) The powers to make regulations conferred by this section are, for the purposes of subsection (1) of section 100 of the Local Government Act 2003 (c. 26), to be regarded as included among the powers mentioned in subsection (2) of that section.

- (b) power to make consequential, supplementary, incidental and transitional provision and savings.

- (3) If Schedule 4 applies in the authority's area immediately before the commencement date, the Schedule is to continue to apply in the authority's area on and after the commencement date as it applied before that date.
- (4) But Schedule 4 shall not so apply in relation to any shopping or luggage trolley seized by the authority on or after the relevant day.
- (5) For the purposes of subsection (4) the relevant day is the earlier of—
 - (a) the third anniversary of the commencement date;
 - (b) if the authority resolves under section 99 of the Environmental Protection Act 1990 (c. 43) that Schedule 4 (as amended by section 99 of this Act) is to apply in its area, the day specified in the resolution as the day on which the Schedule (as so amended) comes into force in its area.
- (6) So long as Schedule 4 continues to apply as described in subsection (3), the reference in section 99(4) of the Environmental Protection Act 1990 to Schedule 4 is to be treated as including a reference to Schedule 4 as it so applies.
- (7) If the authority resolves under section 99 that Schedule 4 (as amended by section 99 of this Act) is to apply in its area, the authority may not in giving effect to paragraph 4(1) of Schedule 4 (as so amended) take into account charges payable in relation to shopping or luggage trolleys seized before the Schedule (as so amended) comes into force in its area.
- (8) Nothing in this section prevents the authority from bringing to an end the application of Schedule 4 in its area.
- (9) In this section—
 - “the commencement date” is the day on which section 99 of this Act comes into force;
 - “local authority” has the same meaning as in section 99 of the Environmental Protection Act 1990;
 - “luggage trolley” and “shopping trolley” have the same meaning as in Schedule 4 to that Act.

Statutory nuisances

101 Statutory nuisance: insects

- (1) Section 79 of the Environmental Protection Act 1990 (statutory nuisances and inspections) is amended as follows.
- (2) In subsection (1) (matters constituting statutory nuisances) after paragraph (f) insert—
 - “(fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;”.
- (3) After subsection (5) insert—
 - “(5A) Subsection (1)(fa) does not apply to insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only.”
- (4) In subsection (7) at the appropriate place insert—
 - ““appropriate person” means—

- (5) In subsection (7) (definitions) at the appropriate place insert—
““airport” has the meaning given by section 95 of the Transport Act 2000;”;

- another network (not being a network situated as described in subsection (7A)(a));
- (b) track that is situated as described in subsection (7A)(a) but is not

- (b) land or other premises belonging to, or enjoyed with, premises so used.”
- (4) In section 82(10) (summary proceedings by aggrieved person: defence of best practicable means not available in certain cases)—
- (a) in paragraph (a) after “paragraph (a), (d), (e), (f)” insert “, (fa)”, and
- (b) after paragraph (a) insert—
- “(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—
- (i) the artificial light is emitted from industrial, trade or business premises, or
- (ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;”.
- (5) After section 82(10) insert—
- “(10A) For the purposes of subsection (10)(aza) “relevant sports facility” has the same meaning as it has for the purposes of section 80(8)(aza).”

Pollution

104 Contaminated land: appeals against remediation notices

- (1) Section 78L of the Environmental Protection Act 1990 (c. 43) (appeals against remediation notices) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) if it was served by a local authority in England, or served by the Environment Agency in relation to land in England, to the Secretary of State;
- (b) if it was served by a local authority in Wales, or served by the Environment Agency in relation to land in Wales, to the National Assembly for Wales;”.
- (3) In that subsection, for the words from “means” to the end substitute “the Secretary of State or the National Assembly for Wales, as the case may be”.
- (4) In subsection (4)—
- (a) omit paragraph (b);
- (b) in paragraph (c), omit the words from “or on” to the end.
- (5) In subsection (6), omit the words “so far as relating to appeals to the Secretary of State”.
- (6) This section does not have effect in relation to a remediation notice served under Part 2A of the Environmental Protection Act 1990 before the commencement of this section.
- (7) The power of the Secretary of State and National Assembly for Wales under

105 Offences relating to pollution etc: penalties on conviction

- (1) In paragraph 25 of Schedule 1 to the Pollution Prevention and Control Act 1999 (c. 24) (purposes for which regulations may be made under section 2: offences), in sub-paragraph (2)(a)—
 - (a) in paragraph (i) for “six months” substitute “12 months”;
 - (b) in paragraph (ii) for “£20,000” substitute “£50,000”.
- (2) Subsection (1) does not have effect in relation to regulations under section 2 of the Pollution Prevention and Control Act 1999 so far as relating to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44).

PART 10

GENERAL

106 Minor and consequential amendments

Schedule 4 (minor and consequential amendments) has effect.

107 Repeals

Schedule 5 (repeals) has effect.

108 Commencement

- (1) The provisions specified in subsection (2) come into force—
 - (a) in relation to England, in accordance with provision made by order by the Secretary of State; and
 - (b) in relation to Wales, in accordance with provision so made by the National Assembly for Wales.
- (2) The provisions referred to in subsection (1) are—
 - (a) section 2;
 - (b) sections 6 to 13 and 15 to 17 and, in Part 1 of Schedule 5, the repeals to the Refuse Disposal (Amenity) Act 1978 (c. 3) and the Road Traffic Regulation Act 1984 (c. 27);
 - (c) sections 19 to 25, paragraphs 5 to 9 of Schedule 4 and, in Part 2 of Schedule 5, the repeals to the Environmental Protection Act 1990 (c. 43);
 - (d) sections 28 to 31, paragraphs 14 to 19 of Schedule 4 and, in Part 3 of Schedule 5, the repeals to the Anti-Social Behaviour Act 2003 (c.38);
 - (e) section 34 and, in Part 3 of Schedule 5, the repeal to the Town and Country Planning Act 1990 (c. 8);
 - (f) sections 37 and 38 and, in Part 4 of Schedule 5, the repeal of section 6 of (2)8.92]T

- (l) section 53;
 - (m) Chapter 1 of Part 6 above and Part 5 of Schedule 5;
 - (n) Part 7 above except sections 83(2) and 85, and in Part 7 of Schedule 5, the repeals to the Noise and Statutory Nuisance Act 1993 (c. 40) and the Noise Act 1996 (c. 37);
 - (o) sections 96 to 98 and Part 9 of Schedule 5;
 - (p) sections 99 and 100;
 - (q) sections 101 to 103;
 - (r) section 104 and Part 10 of Schedule 5.
- (3) These provisions come into force in accordance with provision made by order by the Secretary of State—
- (a) section 1;
 - (b) section 32;
 - (c) sections 42 to 44;
 - (d) section 49 and paragraph 3 of Schedule 4;
 - (e) section 68 and Part 6 of Schedule 5;
 - (f) Part 8 above and Part 8 of Schedule 5;
 - (g) in Part 1 of Schedule 5, the repeal to section 3 of the London Local Authorities Act 2004 (c. i).
 - (h) in Part 2 of Schedule 5, the repeals to the London Local Authorities Act 1994 (c. xii) and the City of Newcastle upon Tyne Act 2000 (c. viii);
 - (i) in Part 3 of Schedule 5, the repeal to the London Local Authorities Act 1995 (c. x);
 - (j) in Part 7 of Schedule 5, the repeal to the London Local Authorities Act

- (ii) in a case where the complaint is in respect of other premises, that the responsible person in relation to the offending premises may be guilty of an offence if noise which exceeds the permitted level, as measured from within the complainant's dwelling, is emitted from the premises in the period specified in the notice."
- (3) In subsection (3), at the beginning insert "In a case where the complaint is in respect of a dwelling,".
- (4) After subsection (3) insert—
 - "(3A) In a case where the complaint is in respect of other premises, a warning notice must be served by delivering it to the person who appears to the officer of the authority to be the responsible person in relation to the offending premises at the time the notice is delivered."
- (5) After subsection (5) insert—
 - "(6) For the purposes of this group of sections, the responsible person in relation to premises at a particular time is—
 - (a) where a premises licence has effect in respect of the premises—
 - (i) the person who holds the premises licence if he is present at the premises at that time,
 - (ii) where that person is not present at the premises at that time, the designated premises supervisor under the licence if he is present at the premises at that time, or
 - (iii) where neither of the persons mentioned in subparagraphs (i) and (ii) is present at the premises at that time, any other person present at the premises at that time who is in charge of the premises;
 - (b) where a temporary event notice has effect in respect of the premises—
 - (i) the premises user in relation to that notice if he is present at the premises at that time, or
 - (ii) where the premises user is not present at the premises at that time, any other person present at the premises at that time who is in charge of the premises."
- 5 In the heading to section 4, after "where noise" insert "from a dwelling".
- 6 After section 4 insert—
 - "4A Offence where noise from other premises exceeds permitted level after service of notice
 - (1) If—
 - (a) a warning notice has been served under section 3 in respect of noise emitted from premises,
 - (b) noise is emitted from the premises in the period specified in the notice, and
 - (c) the noise exceeds the permitted level, as measured from within the complainant's dwelling,

the responsible person in relation to the offending premises at the time at which the noise referred to in paragraph (c) is emitted is guilty of an offence.

- (2) A person guilty of an offence under this section is liable on summary

- (5) In subsection (6), after “(2)(b)” insert “or (2A)”.
- 12 (1) Section 9 (section 8: supplementary) is amended as follows.

Staff etc

- (a) a member of the Commission,
- (b) a member of its staff,
- (c) a committee established under paragraph 5, or
- (d) any other person.

Proceedings

- 8 (1) The Commission may, subject to the other provisions of this Schedule, regulate its own proceedings and those of its committees.
- (2) In particular, the Commission may specify a quorum for meetings.

Accounts

- 9 (1) The Commission must—
- (a) keep proper accounting records, and
 - (b) prepare a statement of accounts in respect of each financial year in accordance with directions given, with the consent of the Treasury, by the Secretary of State.
- (2) The statement must comply with any directions given by the Secretary of State, with the consent of the Treasury, as to—
- (a) the information to be contained in the statement;
 - (b) the form which the statement is to take;
 - (c) the manner in which the information is to be presented;
 - (d) the methods and principles according to which the statement is to be prepared.
- (3) The Commission must send a copy of a statement under sub-paragraph (1)(b) to—
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General.
- (4) A copy of a statement must be sent under sub-paragraph (3) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may, with the consent of the Treasury, direct.
- (5) The Comptroller and Auditor General must—
- (a) examine, certify and report on a statement received under this paragraph, and
 - (b) lay a copy of the statement and his report before Parliament.
- (6) Directions given by the Secretary of State under sub-paragraph (2) may, with the consent of the Treasury, be amended or revoked by him.

Annual report

- 10 (1) The Commission must send to the Secretary of State a report on the discharge of its functions during each financial year.
- (2) A report must be sent under sub-paragraph (1) within such period, beginning with the end of the financial year to which the report relates, as the Secretary of State may, with the consent of the Treasury, direct.
- (3) The Secretary of State must lay before Parliament a copy of each report received by him under this paragraph.

Instruments and authentication

- 11 (1) The fixing of the seal of the Commission must be authenticated by the signature of the chairman or of another person authorised by the

- (5) In subsection (8)(a), for “graffiti removal notice” substitute “defacement removal notice”.
- (6) In subsection (12), for “graffiti removal notice” substitute “defacement removal notice”.
- (7) In that subsection, in the definition of “local authority”, at the end insert “but not a parish or community council”.
- 18 In sections 49(1) and 51(1) and (3), for “graffiti removal notice” substitute “defacement removal notice”.
- 19 In the heading to section 52, for “graffiti removal notices” substitute “defacement removal notices”.

SCHEDULE 5

Section 107

REPEALS

PART 1

VEHICLES

Short title and chapter

Extent of repeal

Refuse Disposal (Amenity) Act 1978 (c. 3)	In section 3—
	(a) subsection (5); (b) in subsection (8), the words from “, other than” to “subsection (5) above,”.
	In section 4—

PART 2

LITTER AND REFUSE

PART

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Environmental Protection Act 1990 (c. 43)	In the heading to section 150, the words “police or”. In section 150— (a) in subsection (1), in paragraph (b), subparagraph (ii) and the preceding “or”; (b) in that subsection, the words from “or the police officer” to “as the case may be,”. In Schedule 15, paragraph 3.

PART 7

NOISE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
London Local Authorities Act 1991 (c. xiii)	Section 23.
Noise and Statutory Nuisance Act 1993 (c. 40)	Section 9. Schedule 3.
Noise Act 1996 (c. 37)	In the heading to section 2, the words “from a dwelling”. Section 8(8). Section 9(3). In section 9(4A), the word “and” at the end of paragraph (a).

PART 8

ARCHITECTURE AND THE BUILT ENVIRONMENT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Environmental Protection Act 1990	In section 153(1), the paragraph (rr) inserted by article 2 of the Financial Assistance for Environmental Purposes (England) Order 2003 (S.I. 2003/714).

PART 9

USE OF FIXED PENALTY RECEIPTS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Local Government Act 2003 (c. 26)	Section 100(2)(f). Section 119.
Anti-social Behaviour Act 2003 (c. 38)	Section 45(3) to (9).

PART 10

CONTAMINATED LAND

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Environmental Protection Act 1990 (c. 43)	In section 78L—