WELSH STATUTORY INSTRUMENTS

2008 No. 663 (W.71)

ENVIRONMENTAL PROTECTION, WALES

The Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Wales) Regulations 2008

Made - - - -	*9 March 2008*
Laid before the National Assembly for Wales - -	*10 March 2008*
Coming into force - -	*7 April 2008*

The Welsh Ministers are, in relation to Wales, the appropriate person as defined in (**1**)—

(a) section 11(1) of the Refuse Disposal (Amenity) Act 1978(**2**), for the purpose of exercising the powers conferred by section 2A(11) of that Act;

(b) section 9(1) of the Control of Pollution (Amendment) Act 1989(**3**), for the purpose of exercising the powers conferred by section 5B(12) of that Act;

(c) section 29(1A)(b) of the Environmental Protection Act 1990(**4**), for the purpose of exercising the powers conferred by sections 34A(12) and 47ZB(4) and (5) of that Act;

(d) section 98(1A)(b) of the Environmental Protection Act 1990(**5**), for the purpose of exercising the powers conferred by sections 88(11) and 97A(1), (2) and (4) of that Act;

(e) section 11(2A)(b) of the Noise Act 1996(**6**), for the purpose of exercising the powers conferred by section 8A(4) and (5) of that Act;

(f) section 47(1) of the Anti-social Behaviour Act 2003(**7**), for the purpose of exercising the powers conferred by sections 43A(4) and (5) and 47(4) of that Act;

(g) section 9(2) of the Clean Neighbourhoods and Environment Act 2005(**8**), for the purpose of exercising the powers conferred by section 6(11) of that Act;

(**1**) References to the National Assembly for Wales in the enactments referred to in paragraphs (a) to (i) should be read as references to the Welsh Ministers as section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 provides that the relevant Assembly functions are transferred to the Welsh Ministers and are now exercisable by them.

(**2**) 1978 c. 3; the definition of the "appropriate person" in section 11(1) was inserted by section 14(3) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and section 2A was inserted by section 10 of the 2005 Act.

(**3**) 1989 c. 14; the definition of the "appropriate person" in section 9(1) was inserted by section 39(2) of the Clean Neighbourhoods and Environment Act 2005 and section 5B was inserted by section 38 of the 2005 Act.

(**4**) 1990 c. 43; section 29(1A) was inserted by section 51 of the Clean Neighbourhoods and Environment Act 2005, section 34A was inserted by section 45 of the 2005 Act and section 47ZB was inserted by section 48 of the 2005 Act.

(**5**) 1990 c. 43; section 98(1A) was inserted by section 26 of the Clean Neighbourhoods and Environment Act 2005, section 88(11) was inserted by section 19(6) of the 2005 Act and section 97A was inserted by section 24 of the 2005 Act.

(**6**) 1996 c. 37; section 11(2A) was inserted by section 85(2) of the Clean Neighbourhoods and Environment Act 2005 and section 8A was inserted by section 82(2) of the 2005 Act.

(**7**) 2003 c. 38; section 47(4) was inserted by section 30(2) of the Clean Neighbourhoods and Environment Act 2005 and section 43A was inserted by section 28 of the 2005 Act.

(**8**) 2005 c. 16.

(h) section 66(b) of the Clean Neighbourhoods and Environment Act 2005, for the purpose of exercising the powers conferred by sections 59(12) and 60(4) and (5) of that Act;

(i) in section 81(1) of the Clean Neighbourhoods and Environment Act 2005, for the purpose of exercising the powers conferred by section 74(4) and (5) of that Act.

The Welsh Ministers in exercise of the powers conferred upon them by section 67(1) of the Clean Neighbourhoods and Environment Act 2005 and the powers cited in sub-paragraphs (a) to (i) above, make the following Regulations:

Title commencement and application

1.—(1) The title of these Regulations is the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Wales) Regulations 2008.

(2) These Regulations come into force on 7 April 2008.

(3) These Regulations apply in relation to Wales.

Prescribed ranges of fixed penalties

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

(a) a principal litter authority in Wales under section 88(6A)(a) of the Environmental Protection Act 1990(**9**);

(b) a principal litter authority in Wales under paragraph 7(4)(a) of Schedule 3A to the Environmental Protection Act 1990(**10**);

(c) a relevant local authority in Wales under section 43(A)(1)(a) of the Anti-social Behaviour Act 2003;

(d) a primary authority or a secondary authority in Wales under section 60(1)(a) of the Clean Neighbourhoods and Environment Act 2005 in relation to any dog control order made by that authority;

(e) a local authority in Wales under section 74(2)(a) of the Clean Neighbourhoods and Environment Act 2005,

must not be less than £75 and not more than £150.

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

(a) a waste collection authority in Wales under section 47ZB(2)(a) of the Environmental Protection Act 1990;

(b) a principal litter authority in Wales under section 94A(4)(a) of the Environmental Protection Act 1990(**11**);

(c) a local authority in Wales under section 8A(2)(a) of the Noise Act 1996

must not be less than £100 and not more than £150.

(3) An authority acting under more than one of the provisions cited in paragraph (1) or (2) may specify a different amount under each such provision.

(**9**) Section 88(6A) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005.

(**10**) Schedule 3A, and section 94B which gives it effect, were inserted by section 23 of the Clean Neighbourhoods and Environment Act 2005.

(**11**) Section 94A was inserted by section 22 of the Clean Neighbourhoods and Environment Act 2005.

Lesser amounts of fixed penalties

3.—(1) Where—

(a) a litter authority in Wales acting under section 88(7) of the Environmental Protection Act 1990(**12**);

(b) a principal litter authority in Wales acting under paragraph 7(5) of Schedule 3A to the Environmental Protection Act 1990;

(c) a local authority in Wales acting under section 43A(3) of the Anti-social Behaviour Act 2003;

(d) a primary authority or a secondary authority in Wales acting under section 60(3) of the Clean Neighbourhoods and Environment Act 2005;

(e) a local authority in Wales acting under section 74(3) of the Clean Neighbourhoods and Environment Act 2005,

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

(2) Where—

(a) a waste collection authority in Wales acting under section 47ZB(3) of the Environmental Protection Act 1990;

(b) a principal litter authority in Wales acting under section 94A(5) of the Environmental Protection Act 1990;

(c) a local authority in Wales acting under section 8A(3) of the Noise Act 1996;

(d) a local authority acting under section 6(10) of the Clean Neighbourhoods and Environment Act 2005,

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

(3) Where a local authority acting under section 2A(10) of the Refuse Disposal (Amenity) Act 1978(**13**) makes provision for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by that authority, that lesser amount must not be less than £120.

(4) Where—

(a) a regulation authority acting under section 5B(11) of the Control of Pollution (Amendment) Act 1989(**14**);

(b) an enforcement authority acting under section 34A(11) of the Environmental Protection Act 1990(**15**),

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

Condition to be satisfied by a person before a secondary authority may authorise that person for the purpose of giving fixed penalty notices

4. The condition to be satisfied by a person before a secondary authority may authorise that person in writing for the purpose of giving notices under—

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

(b) section 43(1) of the Anti-social Behaviour Act 2003;

(**12**) Section 88(7) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005.
(**13**) 1978 c. 3; section 2A was inserted by section 10 of the Clean Neighbourhoods and Environment Act 2005.
(**14**) 1989 c. 14; section 5B was inserted by section 38 of the Clean Neighbourhoods and Environment Act 2005.
(**15**) Section 34A was inserted by section 45 of the Clean Neighbourhoods and Environment Act 2005.