WELSH STATUTORY INSTRUMENTS

2006 No. 2797 (W.236) (C.93)

ENVIRONMENTAL PROTECTION, WALES

The Clean Neighbourhoods and Environment Act 2005 (Commencement No. 2, Transitional Provisions and Savings) (Wales) Order 2006

Made - - - - 17 October 2006

The National Assembly for Wales, in exercise of the powers conferred upon it by section 108(1)(b), (2) and (5) of the Clean Neighbourhoods and Environment Act 2005(**1**), makes the following Order:

Title, application and interpretation

1.—(1) The title of this Order is the Clean Neighbourhoods and Environment Act 2005 (Commencement No. 2, Transitional Provisions and Savings) (Wales) Order 2006.

(2) This Order applies in relation to Wales.

(3) In this Order—

" the 1978 Act" ("*Deddf 1978*") means the Refuse Disposal (Amenity) Act 1978(**2**);

"the 1984 Act" ("*Deddf 1984*") means the Road Traffic Regulation Act 1984(**3**);

"the 1996 Act" ("*Deddf 1996*") means the Dogs (Fouling of Land) Act 1996(**4**);

"the 2005 Act" ("*Deddf 2005*") means the Clean Neighbourhoods and Environment Act 2005.

Provisions of the 2005 Act coming into force on 27 October 2006

2. The following provisions of the 2005 Act come into force on 27 October 2006—

(a) section 11 (notice of removal);

(b) section 12 (disposal);

(c) in so far as not already in force, section 13 (guidance);

(d) section 15 (notice of removal);

(e) section 16 (disposal);

(**1**) 2005 c. 16.
(**2**) 1978 c. 3.
(**3**) 1984 c. 27.
(**4**) 1996 c. 20.

(f) in so far as not already in force, section 17 (guidance);

(g) section 34 (removal of placards and posters);

(h) for the purposes of substituting section 5 (but excluding section 5(2)(d)) of the Control of Pollution (Amendment) Act 1989(**5**), section 37 (enforcement powers);

(i) section 50 (power to require owner of land to remove waste);

(j) in so far as not already in force, section 56 (dog control orders: supplementary);

(k) section 66 ("appropriate person");

(l) in so far as not already in force, section 67 (regulations and orders);

(m) section 80 (orders and regulations);

(n) section 81 (interpretation);

(o) in so far as not already in force, section 83 (noise offences: use of fixed penalty receipts);

(p) section 84 for the purposes of bringing into force paragraphs 2, 7(2)(a) and (3), 8(2) and 12(2), (5) and (6) of Schedule 1 to the 2005 Act (extension of Noise Act 1996(**6**) to licensed premises etc.);

(q) section 86 (deferral of duty to serve abatement notice);

(r) section 99 (abandoned shopping and luggage trolleys);

(s) section 100 (section 99: transitional provision);

(t) in Part 1 (vehicles) of Schedule 5 (repeals), the repeals to the 1978 Act and to the 1984 Act.

Provision of the 2005 Act coming into force on the date on which the Highways Act 1980 (Gating Orders) (Wales) Regulations 2007 come into force

3. In so far as not already in force section 2 (gating orders) comes into force on the date on which the Highways Act 1980 (Gating Orders) (Wales) Regulations 2007 come into force.

Provisions of the 2005 Act coming into force on the date on which the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Wales) Regulations 2007 come into force

4. The following provisions of the 2005 Act come into force on the date on which the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) (Wales) Regulations 2007 come into force—

(a) in so far as not already in force, section 6 (power to give fixed penalty notices);

(b) section 7 (power to require name and address);

(c) in so far as not already in force, section 8 (use of fixed penalty receipts);

(d) section 9 (fixed penalty notices: supplementary);

(e) in so far as not already in force, section 10 (offence of abandoning a vehicle: fixed penalty notices);

(f) in so far as not already in force, section 19 (litter offence: fixed penalty notices);

(g) in so far as not already in force, section 20 (litter clearing notices);

(h) section 21 (street litter control notices);

(i) section 22 (failure to comply with notice: fixed penalty notices);

(**5**) 1989 c. 14; section 5 is substituted by section 37 of the 2005 Act.
(**6**) 1996 c. 37.

(j) section 23 (controls on free distribution of printed matter);

(k) in so far as not already in force, section 24 (fixed penalty notices: common provision);

(l) section 25 (exclusion of liability);

(m) in so far as not already in force, section 28 (fixed penalty notices: amount of fixed penalty);

(n) section 29 (fixed penalty notices: power to require name and address);

(o) in so far as not already in force, section 30 (fixed penalty notices: authorised officers);

(p) section 31 (extension of graffiti removal notices to fly-posting);

(q) in so far as not already in force, section 38 (failure to produce authority: fixed penalty notices);

(r) in so far as not already in force, section 45 (failure to furnish documentation: fixed penalty notices);

(s) in so far as not already in force, section 48 (offences relating to waste receptacles: fixed penalty notices);

(t) in so far as not already in force, section 52 (use of fixed penalty receipts);

(u) in so far as not already in force, section 59 (fixed penalty notices);

(v) in so far as not already in force, section 60 (amount of fixed penalties);

(w) section 61 (power to require name and address);

(x) section 62 (community support officers etc.);

(y) section 69 (designation of alarm notification areas);

(z) section 70 (withdrawal of designation);

(aa) section 71 (notification of nominated key-holders);

(bb) section 72 (nomination of key-holders);

(cc) in so far as not already in force, section 73 (offences under section 71: fixed penalty notices);

(dd) in so far as not already in force, section 74 (amount of fixed penalty);

(ee) in so far as not already in force, section 75 (use of fixed penalty receipts);

(ff) section 76 (fixed penalty notices: power to require name and address);

(gg) section 77 (power of entry);

(hh) section 78 (warrant to enter premises by force);

(ii) section 79 (powers of entry: supplementary);

(jj) in so far as not already in force, section 82 (noise offences: fixed penalty notices);

(kk) section 84 (extension of Noise Act 1996 to licensed premises etc) for the purposes of bringing into force the provisions of Schedule 1 not commenced by article 2(q);

(ll) in so far as not already in force, section 96 (use of fixed penalty receipts: higher tier authorities);

(mm) in so far as not already in force, section 97 (use of fixed penalty receipts: lower tier authorities);

(nn) in so far as not already in force, section 98 (sections 96 and 97: supplementary);

(oo) Part 2 of Schedule 5 (repeals);

(pp) Part 9 of Schedule 5 in respect of the repeal of section 119 of the Local Government Act 2003(**7**).

Provisions of the 2005 Act coming into force on the date on which the Dog Control Orders (Miscellaneous Provisions) (Wales) Regulations 2007 come into force

5. The following provisions of the 2005 Act come into force on the date on which the Dog Control Orders (Miscellaneous Provisions) (Wales) Regulations 2006 come into force—

(a) in so far as not already in force, section 55 (power to make dog control orders);

(b) in so far as not already in force, section 57 (land to which Chapter 1 applies);

(c) in so far as not already in force, section 58 (primary and secondary authorities);

(d) section 63 (overlapping powers);

(e) section 64 (byelaws);

(f) section 65 (Dogs (Fouling of Land) Act 1996(**8**));

(g) Part 5 of Schedule 5.

Provisions of the 2005 Act coming into force on the date on which the Statutory Nuisance (Miscellaneous Provisions) (Wales) Regulations 2006 come into force

6. The following provisions of the 2005 Act come into force on the date on which the Statutory Nuisance (Miscellaneous Provisions) (Wales) Regulations 2006 come into force—

(a) in so far as not already in force, section 101 (statutory nuisance: insects);

(b) in so far as not already in force, section 103(2)(a) and (4)(a) (sections 101 and 102: supplementary).

Provisions of the 2005 Act coming into force on the date on which the Statutory Nuisance (Artificial Lighting) (Designation of Relevant Sports) (Wales) Order 2006 comes into force

7. The following provisions of the 2005 Act come into force on the date on which the Statutory Nuisance (Artificial Lighting) (Designation of Relevant Sports) (Wales) Order 2006 comes into force—

(a) section 102 (statutory nuisance: lighting);

(b) section 103 (sections 101 and 102: supplementary) other than section 103(2)(a) and (4)(a).

Transitional provisions: Refuse Disposal (Amenity) Act 1978

8.—(1) The amendments made to the 1978 Act by—

(a) section 11 (which amends section 3 of the 1978 Act);

(b) section 12 (which amends section 4 of the 1978 Act);

(c) section 13 (which inserts section 4A (guidance) into the 1978 Act),

of the 2005 Act do not affect the operation of sections 3 and 4 of the 1978 Act in relation to a vehicle to which paragraph (2) applies.

(2) This paragraph applies to a vehicle in relation to which a local authority has, before 27 October 2006—

(a) given a notice under section 3(2) of the 1978 Act; or

(**7**) 2003 c. 26
(**8**) 1996 c. 20.

(b) affixed a notice under section 3(5) of that Act.

Transitional provisions: Road Traffic Regulation Act 1984

9.—(1) The amendments made to the 1984 Act by—

(a) section 15 (which amends section 99 of the 1984 Act);

(b) section 16 (which amends section 101 of the 1984 Act);

(c) section 17 (which amends section 103 of the 1984 Act),

of the 2005 Act do not affect the operation of sections 99, 101 and 103 of the 1984 Act in relation to a vehicle to which paragraph (2) applies.

(2) This paragraph applies to a vehicle—

(a) on a road in relation to which an authority has, before 27 October 2006, given a notice under section 99(3) of the 1984 Act;

(b) to which an authority has, before 27 October 2006, affixed a notice under section 99(4) of that Act.

Savings: Dogs (Fouling of Land) Act 1996

10.—(1) Subject to paragraph (2) and notwithstanding its repeal by section 65 of, and Part 5 of Schedule 5 to, the 2005 Act, the Dogs (Fouling of Land) Act 1996 continues to have effect in respect of any land which is designated land immediately before the date on which the 1996 Act is repealed in accordance with regulation 5(g) of this Order.

(2) Any land which is designated land immediately before the repeal of the 1996 Act by article 5(g) of this Order ceases to be designated land on the date on which the repeal takes effect—

(a) to the extent that a dog control order (whether or not it relates to the fouling of land by dogs) made under section 55 of the 2005 Act applies in respect of it;

(b) if the designation order in question is revoked; or

(c) if the designation order in question is amended so as to reduce the extent of the designated land, to the extent of that reduction.

(3) In respect of the continued effect of the 1996 Act—

(a) section 88(2) to (8) of the Environmental Protection Act 1990(**9**), as applied by section 4(2) and (3) of the 1996 Act, continue to apply as if the amendments made by section 19 of the 2005 Act to section 88 of the Environmental Protection Act 1990 had not been made;

(b) notwithstanding their repeal by Part 5 of Schedule 5 to the 2005 Act, paragraph 1(2)(c) of Schedule 4 and paragraph 1(2)(b) of Schedule 5 to the Police Reform Act 2002(**10**) continue to have effect;

(c) notwithstanding its repeal by Part 9 of Schedule 5 to the 2005 Act, section 119 of the Local Government Act 2003 shall continue to have effect as if subsections (2)(a), (3)(a) and (c) and (4) of that section were deleted.

(4) In this article—

"*designated land*" has the meaning given in section 2(1) of the 1996 Act; and

"*designation order*" means an order made under section 2(1) of the 1996 Act.

(**9**) 1990 c. 43; section 119(1) of the Local Government Act 2003 provides that section 88(6)(a) of the Environmental Protection Act 1990 ceases to have effect in its application both to the latter Act and, by virtue of section 4(2) of the Dogs (Fouling of Land) Act 1996, to fixed penalties for dog fouling offences.

(**10**) 2002 c. 30.