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

DRAFT STATUTORY INSTRUMENTS

# 2006 No.

# ENVIRONMENTAL PROTECTION, ENGLAND

## The Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006

*Made - - - - 2006*

*Coming into force in accordance with regulation 1(b)*

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

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

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

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

Accordingly, the Secretary of State makes the following Regulations:

**Title, commencement and extent**

**1.** These Regulations—

(a) may be cited as the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006;

(b) come into force on the day after the day on which they are made;

(c) apply in England only.

(**1**) 2005 c. 16.

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

**Use of fixed penalty receipts: specification of other qualifying functions**

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

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

**Use of fixed penalty receipts: transitional arrangement**

**3.** In the event that any authority in relation to which section 96 of the Clean Neighbourhoods and Environment Act 2005 applies is no longer categorised as "excellent" or "good" in a categorisation Order, regulation 2(1) will continue to apply for a period of one year from the date on which that cessation comes into effect as though that authority were still categorised as "excellent" or "good".

**Use of fixed penalty receipts by parish councils**

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

(a) section 88 (fixed penalty notices for leaving litter) of the Environmental Protection Act 1990(**3**);

(b) section 43(1) (penalty notices for graffiti and fly-posting) of the Anti-social Behaviour Act 2003(**4**);

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

only for the purposes of its qualifying functions.

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

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

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

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

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

(3) A parish council must supply the Secretary of State with such information in relation to its amounts received as specified in paragraph (1) as she may require.

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

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

(**3**) 1990 c. 43; section 88(9)(f), as amended by section 19(1) and (4) of the Clean Neighbourhoods and Environment Act 2005 (c. 16), includes parish councils in the list of authorities defined as "litter authorities", the authorised officers of which are empowered to issue fixed penalty notices under that section.

(**4**) 2003 c. 38; by virtue of qualifying as a litter authority for the purposes of section 88 of the Environmental Protection Act 1990, a parish council is also a local authority the authorised officers of which are empowered to issue fixed penalty notices under section 43 of the Anti-social Behaviour Act 2003; see section 47(1) of the 2003 Act.