



# Reading Borough Council Act 2013

## 2013 CHAPTER iv

### *Fixed penalties*

#### **7 Fixed penalty offences**

- (1) Where on any occasion an authorised officer, constable or (by virtue of section 15(1)) a community support officer finds a person who he has reason to believe has on that occasion committed in the borough a relevant offence or an offence under section 6 the officer, constable or community support 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.
- (2) Section 8 shall apply in respect of fixed penalty notices under this section.
- (3) An authorised officer, constable or (by virtue of section 15(1)) a community support officer may not exercise the powers under subsection (1) and section 8 shall have no effect until the levels of fixed penalties set by the council in accordance with section 9 have come into force for the first time in accordance with section 10.

#### **8 Fixed penalty notices**

- (1) The provisions of this section shall have effect in relation to notices (in this section referred to as “fixed penalty notices”) which may be given under section 7 by an authorised officer, a constable or (by virtue of section 15(1)) a community support officer in respect of a relevant offence.
- (2) Where a person is given a fixed penalty notice in respect of a relevant offence—
  - (a) no proceedings shall be instituted for that offence before the expiration of 14 days following the date of the notice; and
  - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (3) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and shall state—

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- (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 name of the person to whom and the address at which the fixed penalty may be paid.
- (4) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (5) Where a letter is sent in accordance with subsection (4), payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (6) The form of notices under this section shall—
- (a) be such as the council shall prescribe; and
  - (b) be in substantially the same form as notices prescribed by the Secretary of State under section 88(5) of the Environmental Protection Act 1990 (fixed penalty notices for leaving litter).
- (7) The fixed penalty payable in pursuance of a fixed penalty notice under this section shall be paid to the council.
- (8) Section 11 shall have effect with respect to financial provisions relating to fixed penalties payable in pursuance of a fixed penalty notice under this section.
- (9) In any proceedings a certificate which—
- (a) purports to be signed by or on behalf of the chief finance officer of the council; and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be evidence of the facts stated.
- (10) In this section, “chief finance officer”, in relation to the council, means the person having responsibility for the financial affairs of the council.

## **9 Levels of fixed penalties**

- (1) It shall be the duty of the council to set the levels of fixed penalties payable to them under section 8.
- (2) Different levels may be set for different areas in the borough and for different cases or classes of case.
- (3) In setting the level of fixed penalty under subsection (1) the council may
- (a) in respect of relevant offences, take account of—
    - (i) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of Schedule 4 to the 1982 Act; and
    - (ii) the cost or expected cost of enforcing the provisions of that Schedule; or
  - (b) in respect of offences under section 6, take account of—
    - (i) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of that section; and

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- (ii) the cost or expected cost of enforcing the provisions of that section.
- (4) Levels of fixed penalties set by the council in accordance with this section may only come into force in accordance with section 10.
- (5) The council shall, in a notice in a local newspaper circulating in the borough, publish the levels of fixed penalties which have been set by them in accordance with this section.

## **10 Fixed penalties: reserve powers of Secretary of State**

- (1) Where the council set any levels of fixed penalties under section 9(1), they shall notify the Secretary of State of the levels of fixed penalties so set.
- (2) Where notification of any levels of fixed penalties is required to be given under subsection (1), the levels of fixed penalties shall not come into force until after the expiration of—
  - (a) the period of one month beginning with the day on which the notification is given; or
  - (b) such shorter period as the Secretary of State may allow.
- (3) If, before the expiration of that period, the Secretary of State gives notice to the council that he objects to the levels of fixed penalties on the grounds that some or all of them are or may be excessive, those levels of fixed penalties to which he objects shall not come into force unless and until the objection has been withdrawn.
- (4) If, at any time before the levels of fixed penalties required to be notified under subsection (1) to the Secretary of State have come into force, the Secretary of State considers that some or all of them are excessive, he may make regulations setting the levels of fixed penalties.
- (5) Levels of fixed penalties set under subsection (4) must be no higher than those notified under subsection (1).
- (6) Regulations under subsection (4) are without prejudice to the duty imposed on the council by section 9(1); but where the Secretary of State makes any such regulations the council must not set any further fixed penalties under the said subsection (1) until after the expiration of the period of 12 months beginning with the day on which the regulations are made.
- (7) The power to make regulations conferred by subsection (4)—
  - (a) includes power to make provision in respect of such cases only as may be specified in the regulations and to make different provision for different circumstances; and
  - (b) shall be exercised by statutory instrument subject to annulment in pursuance of a resolution in either House of Parliament.

## **11 Financial provisions**

- (1) The council shall keep an account of their income and expenditure in respect of the administration and enforcement of sections 7 and 8.
- (2) At the end of each financial year any deficit in the account shall be made good out of the general rate fund, and (subject to subsection (3)) any surplus shall be applied

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to purposes connected with the improvement of the amenity of the borough or any part of the borough.

- (3) If the council so determine, any amount not applied in any financial year, instead of being or remaining so appropriated, may be carried forward in the account kept under subsection (1) to the next financial year.
- (4) The council shall, after each financial year, report to the Secretary of State on any action taken by them, pursuant to subsection (2) or (3), in respect of any deficit or surplus in their account for the year.
- (5) The report under subsection (4) shall be made as soon after the end of the financial year to which it relates as possible.