



Environmental Protection Act 1990

1990 CHAPTER 43

PART IV

LITTER ETC

Provisions relating to litter

89 Duty to keep land and highways clear of litter etc.

- (1) It shall be the duty of—
- (a) each local authority, as respects any relevant highway or, in Scotland, relevant road for which it is responsible,
 - (b) the Secretary of State, as respects any trunk road which is a special road [^{F1}(other than one to which paragraph (ba)(i) applies)] and any relevant highway or relevant road for which he is responsible,
 - [^{F2}(ba) a strategic highways company as respects—
 - (i) any trunk road which is a special road for which it is the highway authority, and
 - (ii) any relevant highway for which it is responsible.]
 - (c) each principal litter authority, as respects its relevant land,
 - (d) the appropriate Crown authority, as respects its relevant Crown land,
 - (e) each designated statutory undertaker, as respects its relevant land, [^{F3}and]
 - (f) the governing body of each designated educational institution or in Scotland such body or, as the case may be, the education authority responsible for the management of the institution, as respects its relevant land, [^{F4}and
 - (g) the occupier of any relevant land within a litter control area of a local authority,]
- to ensure that the land is, so far as is practicable, kept clear of litter and refuse.
- (2) Subject to subsection (6) below, it shall also be the duty of—
- (a) each local authority, as respects any relevant highway or relevant road for which it is responsible,

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- (b) the Secretary of State, as respects any trunk road which is a special road [^{F5} (other than one to which paragraph (c)(i) applies)] and any relevant highway or relevant road for which he is responsible,
- [^{F6}(c) a strategic highways company as respects—
- (i) any trunk road which is a special road for which it is the highway authority, and
 - (ii) any relevant highway for which it is responsible,]
- to ensure that the highway or road is, so far as is practicable, kept clean.
- (3) In determining what standard is required, as respects any description of land, highway or road, for compliance with subsections (1) and (2) above, regard shall be had to the character and use of the land, highway or road as well as the measures which are practicable in the circumstances.
- (4) Matter of any description prescribed by regulations made by the Secretary of State for the purposes of subsections (1)(a) and (2) above shall be litter or refuse to which the duties imposed by those subsections apply as respects relevant highways or relevant roads whether or not it would be litter or refuse apart from this subsection.
- (5) It shall be the duty of a local authority, when discharging its duty under subsection (1) (a) or (2) above as respects any relevant highway or relevant road, to place and maintain on the highway or road such traffic signs and barriers as may be necessary for giving warning and preventing danger to traffic or for regulating it and afterwards to remove them as soon as they cease to be necessary for those purposes; but this subsection has effect subject to any directions given under subsection (6) below.
- (6) In discharging its duty under subsection (1)(a) or (2) above to keep clear of litter and refuse or to clean any relevant highway or relevant road for which it is responsible, the local authority shall comply with any directions given to it by the highway or roads authority with respect to—
- (a) the placing and maintenance of any traffic signs or barriers;
 - (b) the days or periods during which clearing or cleaning shall not be undertaken or undertaken to any extent specified in the direction;
- and for the purpose of enabling it to discharge its duty under subsection (1)(a) or (2) above as respects any relevant highway or relevant road the local authority may apply to the highway authority or roads authority for that authority to exercise its powers under [^{F7}section 14(1) or (2)] of the ^{M1}Road Traffic Regulation Act 1984 (temporary prohibition or restriction of traffic).
- [^{F8}(6A) The Scottish Ministers may give to any person subject to a duty imposed by subsection (1) or (2) above such directions as they consider necessary or expedient for securing compliance by such person with such duty.
- (6B) A person to whom a direction is given under subsection (6A) shall comply with the direction.
- (6C) A direction under subsection (6A) may—
- (a) be given generally or to a specific person;
 - (b) make different provision for different persons and different cases or circumstances;
 - (c) include provision specifying, in relation to any factor by reference to which a person's discharging of any such duty can be measured, standards to be met by the person.

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- (6D) The Scottish Ministers shall—
- (a) cause—
 - (i) any direction under subsection (6A) above; and
 - (ii) any variation or revocation of such a direction,
to be published; and
 - (b) cause copies of each such direction, variation or revocation to be made available to the public.]
- (7) The Secretary of State shall prepare and issue a code of practice for the purpose of providing practical guidance on the discharge of the duties imposed by subsections (1) and (2) above.
- (8) Different codes of practice may be prepared and issued under subsection (7) above for different areas.
- (9) The Secretary of State may issue modifications of, or withdraw, a code issued under subsection (7) above; but where a code is withdrawn, he shall prepare and issue a new code under that subsection in substitution for it.
- (10) Any person subject to any duty imposed by subsection (1) or (2) above shall have regard to the code of practice in force under subsection (7) above in discharging that duty.
- (11) A draft code prepared under subsection (7) above shall be laid before both Houses of Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the code was so laid, or if the draft is laid on different days, the later of the two days.
- (12) If, within the period mentioned in subsection (11) above, either House resolves that the code the draft of which was laid before it should not be issued, the Secretary of State shall not issue that code.
- (13) No account shall be taken in reckoning any period of 40 days for the purposes of [F⁹subsection (11) above] of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- [F¹⁰(13A) Subsections (11) to (13) shall not apply in respect of a draft code prepared under subsection (7) above which relates only to Scotland and such a code shall be laid before the Scottish Parliament and shall not be issued until after the end of the period of 40 days beginning with the day on which the code was so laid.
- (13B) If within the period mentioned in subsection (13A) above the Scottish Parliament resolves that the code, the draft of which was laid before it, should not be issued the Scottish Ministers shall not issue that code.
- (13C) No account shall be taken in reckoning any period of 40 days for the purposes of subsection (13A) above of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.]
- (14) In this section “traffic sign” has the meaning given in section 64(1) of the ^{M2}Road Traffic Regulation Act 1984.

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Textual Amendments

- F1** Words in s. 89(1)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 111\(2\)\(a\)](#); [S.I. 2015/481](#), [reg. 2\(a\)](#)
- F2** S. 89(1)(ba) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 111\(2\)\(b\)](#); [S.I. 2015/481](#), [reg. 2\(a\)](#)
- F3** Word in s. 89(1)(e) inserted (6.3.2007 for E. and 18.1.2008 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 106, 108, [Sch. 4 para. 5](#); [S.I. 2007/390](#), [art. 2\(a\)](#); [S.I. 2007/3371](#), [art. 2\(a\)](#)
- F4** S. 89(1)(g) and preceding word repealed (6.3.2007 for E. and 15.3.2007 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), ss. 107, 108, [Sch. 5 Pt. 2](#); [S.I. 2006/2797](#), [art. 4\(oo\)](#); [S.I. 2007/390](#), [art. 2\(c\)](#)
- F5** Words in s. 89(2)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 111\(3\)\(a\)](#); [S.I. 2015/481](#), [reg. 2\(a\)](#)
- F6** S. 89(2)(c) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 111\(3\)\(b\)](#); [S.I. 2015/481](#), [reg. 2\(a\)](#)
- F7** Words in s. 89(6) substituted (1.7.1992) by [Road Traffic \(Temporary Restrictions\) Act 1991 \(c. 26\)](#), SIF 107:1), [s. 2\(6\)\(7\)](#); [S.I. 1992/1218](#), [art. 2](#).
- F8** S. 89(6A)-(6D) inserted (S.) (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), [ss. 57\(2\)](#), 145(2); [S.S.I. 2004/420](#), [art. 3](#), [Sch. 1](#)
- F9** Words in s. 89(13) substituted (1.7.1999) by [S.I. 1999/1820](#), [art. 4](#), [Sch. 2 Pt. I para. 102\(4\)\(a\)](#)
- F10** S. 89(13A)-(13C) inserted (1.7.1999) by [S.I. 1999/1820](#), [art. 4](#), [Sch. 2 Pt. I para. 102\(4\)\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 89(1)(a) modified by [S.I. 1991/719](#), [reg. 3\(1\)](#)
- C2** S. 89(1)(c) modified by [S.I. 1991/719](#), [reg. 3\(2\)](#)
- C3** S. 89(1)(f) modified by [S.I. 1991/719](#), [reg. 3\(3\)](#)
- C4** S. 89(2) modified by [S.I. 1991/719](#), [reg. 3\(4\)](#)

Commencement Information

- I1** S. 89 wholly in force at 1.6.1991; s. 89 not in force at Royal Assent see s. 164(2); s. 89(7)(8)(9)(11)(12)(13) in force at 13.11.1990 by [S.I. 1990/2243](#); s. 89(4) in force at 14.1.1991 by [S.I. 1991/96](#), [art. 2](#)
S. 89(1)(a)-(f)(2)(3)(5)(6)(10)(14) in force at 1.4.1991 and s. 89(1)(g) in force at 1.6.1991 see s. 164(3) and [S.I. 1991/1042](#), [arts. 2, 3](#)

Marginal Citations

- M1** 1984 c. 27.
- M2** 1984 c. 27.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)