

The legislative framework

Littering is defined by the Environmental Protection Act 1990 (EPA) section 87 as occurring if any person throws down, drops or otherwise deposits any litter in any place and leaves it. The land must be open to the air and includes water.

Litter was given its natural meaning, of miscellaneous rubbish left lying about, by Case law in July 1995. [Westminster City Council v Riding]. It was determined that it could include commercial waste because if the waste was put out at the wrong time it is litter. The word litter is therefore given a wide interpretation and can include a sweet wrapper, bag of rubbish, food waste, crisp packet or cigarette butt.

Section 27 of the Clean Neighbourhoods and Environment Act 2005 provided a clear definition of 'litter' as including (a) the discarded ends of cigarettes, cigars and like products, and (b) discarded chewing-gum and the discarded remains of other products designed for chewing.

Littering is a criminal offence, which can lead to a fine of up to £2500. The offence is summary only and therefore cannot lead to imprisonment. There are a number of factors which determine if an offence has been committed under section 87 of the EPA 1990.

- Has a person thrown down, dropped or otherwise deposited litter?
- Did the person leave the litter?
- Is the land upon which it was thrown down, dropped or deposited an open space?
- The offence can also occur on relevant highways, relevant roads and trunk roads, relevant Crown Land, relevant land designated by a statutory undertaker or an educational establishment.

An offence is not committed if the deposit is authorised or it has been done with the consent of the owner, occupier or other person having control of the place into which the thing is deposited.

Section 88 EPA 1990 provides powers to local authorities, as Litter Authorities, to issue Fixed Penalty Notices (FPN) to an individual who causes an offence under section 87 of the EPA 1990. The current fine level, introduced on the 7th April 2005, is £75.00.

The FPN is served on the offender (section 88(1) EPA1990) issuing on a notice prescribed by the Litter (Fixed Penalty Notices) Order 1991. This requires the payment of the fine in 14 days. If the fine is paid within 10 days, this is reduced to £50.00. If the fine is not paid then the local authority may prosecute in a magistrate's court for the summary offence.