The Committee will meet at 10.00 am in Committee Room 4.

1. **Crofting Reform etc. Bill:** The Committee will consider the Bill at Stage 2 (Day 1).

2. **European issues:** The Committee will consider an update from the Convener on European issues.

3. **Subordinate legislation:** The Committee will consider the following draft code of practice subject to annulment—


4. **Subordinate legislation:** The Committee will consider the following negative instrument—

   the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (SSI 2006/530).

5. **Budget process 2007-08 (in private):** The Committee will consider a draft report to the Finance Committee on the Executive’s Draft Budget 2007-08.

Mark Brough
Clerk to the Committee
Direct Tel: 0131-348-5240
The following papers are attached:

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<td>Environmental Protection Act 1990: Code of Practice on Litter and Refuse (Scotland) Act 2006 (SE/2006/164)</td>
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<td>The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (SSI 2006/530)</td>
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Background

1. The volume of EU material relevant to the Committee’s remit is very significant. Awareness of European legislation may be helpful in relation to a large portion of the Committee’s referred work, such as petitions and both primary and secondary legislation.

2. Its workload means that the Committee has to be selective in undertaking detailed consideration of any EU issues on its own initiative (e.g. by undertaking inquiries). As part of its agreed approach to gathering information on relevant EU issues and legislative proposals the Committee has asked me to provide an update on relevant issues approximately quarterly as the basis for work programme decisions. This is the seventh such update.

3. Committee members are also informed about relevant EU issues through the Executive’s regular pre-and post-council reports and by the European and External Relations Committee (EERC).

Scottish Executive – Key Dossiers

4. The Executive recently revised its approach to reporting to the EERC and it now produces a paper setting out its key EU priorities which it updates on a regular basis throughout the year. The last such update was considered at the EERC meeting on 26 September. The key priorities for the environment and rural development portfolio are set out below. The Executive has not identified any key priorities in the rural development element of the portfolio.

Fisheries
- Internal EU fisheries negotiations
- External Fisheries negotiations
- European Fisheries Fund
- Common Fisheries Policy: review of the cod recovery plan

Aquaculture
- The Common Fisheries Policy: proposals for a new aquaculture health Directive
- EU Trade Defence: anti-dumping measures against Norwegian farmed salmon

Environment
- Groundwater Daughter Directive
- Energy Green Paper – A European Strategy for Sustainable, Competitive and Secure Energy
- Revision of the Water Framework Directive

Marine Environment
- Marine Strategy and draft Marine Strategy Directive
5. Copies of these papers have been circulated to members previously and additional copies are available from the Clerks. Updates on some of these issues are covered in the Annex to my report. However, members may wish to seek further updates from the Executive on any of those issues.

Recent Committee activity on EU issues

Ministerial evidence
6. Since my last update on 31 May, the Committee took evidence from the Minister for Environment and Rural Development on 21 June on the priorities for the Finnish presidency.

7. It has been the Committee’s practice to seek an evidence session with the Minister prior to the December Fisheries Council and on the priorities for the incoming presidency. As its meeting on 1 November, the Committee agreed to take evidence from the Minister on 6 December focussing principally on the December Fisheries Council and the rural development programme.

Relevant current issues
8. The Annex to my report concentrates mainly on fisheries issues and the rural development budget to inform the proposed evidence session in December. In addition, SPICe will provide a briefing paper on the Fisheries Council in due course. I have also included in the Annex an update on some issues which the Committee has identified in previous reports. It is not an exhaustive list and it contains a mixture of items – some of which are at an early stage of development or not yet concluded at EU level, and others which are concluded at EU level and await domestic implementation.

9. Members are invited to:

- note the recent and current work programme of the Environment and Rural Development Committee in relation to EU matters; and

- consider whether they wish to undertake any further work, or seek any further information from the Executive in advance of the proposed evidence from the Minister in December, on any of the EU issues set out in the attached appendices (or on any other EU issue).

Sarah Boyack MSP
Convener
9 November 2006

1 These are available on the Committee’s webpage with the papers for the meetings on 3 December 2003, 21 April 2004, 15 September 2004, 19 January, 1 June, 16 November 2005 and 31 May 2006.
Proposed Council recommendation on fishing opportunities and associated conditions for certain fish stocks

1. ICES “autumn” advice for most of the quota stocks of greatest interest to the Scottish fleet was published on 20 October. These stocks are: Nephrops; cod; haddock; whiting; and monkfish among the demersal species and mackerel among the pelagic species. Advice on herring which is also important for the Scottish pelagic fleet was published in ICES “spring” advice on 6 June. The Scottish fleet also has an interest in stocks of plaice; sole; saithe; megrim; and ling among the demersal species, and blue whiting and horse mackerel among the pelagic species. The status of some of the species which are particularly important for the inshore shellfish fisheries: lobster; crabs; and scallops, are not assessed by ICES and landings of these species are not regulated by quotas. Though not prosecuted by the Scottish fleet, the stocks of industrial fish (sandeel, Norway pout and sprat) are also of interest because of the important role they play in the marine ecosystem, as food for other fish and also for seabirds and marine mammals.

2. In summary, the scientific advice on the key stocks of interest to the Scottish fleet is as follows: Nephrops; haddock; and the pelagic stocks of herring and mackerel are generally in reasonable condition, and capable of supporting significant harvests. The status of whiting and monkfish stocks is uncertain. Despite the measures taken since 2000 (reduced quotas, technical measures and days at sea) cod stocks are still thought to be outside safe biological limits and show no appreciable sign of recovery.

3. In the coming months, negotiations among EU member states and other coastal states will continue which will fix the quotas and related measures for 2007. The coastal parties of the EU, Norway and the Faeroes have already fixed the mackerel quota for 2007 at a meeting in Edinburgh on 23-24 October 2006. Negotiations between the EU and Norway on the management of the seven shared stocks in the North Sea will be held in two rounds between 6-10 November and 27 November - 3 December. These negotiations will fix the quotas for the shared stocks, which include cod, haddock, whiting and herring. The European Commission is expected to produce its proposal for TACs and quotas, which will ratify the aforementioned agreements and contain proposals for other stocks in the week beginning 4 December. As well as the Commission’s proposals for quotas, of great importance for the Scottish fleet will be the Commission’s proposals for days at sea for the demersal fisheries in the North Sea and the West of Scotland. The December Agriculture and Fisheries Council at which the Commission’s proposal will ultimately be agreed will take place in Brussels on 19-21 December.

European Fisheries Fund

4. The European Fisheries Fund (EFF) provides the main source of financial support for the fishing industry. The use of money from the fund for 2007-13 is governed by EU Regulations which were agreed at the Agriculture and Fisheries Council on 19 June. These set out a “menu” of options including investments in port and harbour facilities; decommissioning and tie-up schemes; processing; improvements to safety on board fishing vessels; and socio-economic measures, such as early-retirement schemes for fishermen.

5. The overall budget for the fund was decided by the European Council at its meeting in Brussels in December 2005. €2,908 million will go to the Convergence areas and €941 million to the non-Convergence areas. Convergence funding is available to regions whose GDP per head is below 75% of the EU-25 average. Convergence funding under the EFF will also be available to “statistically affected” regions which have GDP per head below 75% of the EU-15 average but above 75% of the EU-25 average). In Scotland, the Highlands and Islands is a statistically affected region.

6. Of this, the UK will receive a total of €122 million, €84 million for non-Convergence areas and €38 million for Convergence areas. The figures quoted are in 2004 prices. In current prices, the UK will receive €95 million for non-convergence areas and €43 million for convergence areas, a total of €138 million. The allocation of this sum between UK administrations has yet to be decided. This is less than it received from 2000-06, where the UK received €216 million, of which Scotland received €89 million. This is because the new Member States have had to be accommodated within a budget that has not increased from the money available to the EU-15 from 2000-06. Member States are obliged to make a national contribution to draw down the fund. They can also apply for State Aid clearance to fund similar measures entirely from national funds.

7. The Scottish Executive is now drawing up a programme setting out which measures it intends to fund using its share of the EU money and will issue a consultation on its plans imminently.

**Review of the Cod Recovery Plan**

8. Following advice from Regional Advisory Councils, and its own Scientific Technical and Economic Committee on Fisheries (STECF) the European Commission has initiated a review of the cod recovery plan. The Commission produced a paper on the review in July 2006, and the UK administrations produced a paper on the review in August 2006. The North Sea Regional Advisory Council also continues to work on this issue, having produced a position paper in March 2006. If the review finds that changes to the existing legal arrangements are needed, it is unlikely that the Commission will present any proposals before the New Year. The 2007 cod quota, and the days at sea for boats which catch cod will be decided at the December Fisheries Council, and the negotiations leading up to it.

**Action Plan on Simplification of Common Fisheries Policy Regulations**

9. The European Commission published an action plan on the simplification of the Common Fisheries Policy in December 2005. Since the beginning of the year, the Commission has been consulting with stakeholders to make progress on the simplification initiatives established in the plan. Seven initiatives have been identified for attention between 2006-2008. These are:

- within the CFP’s Conservation policy: setting of TACs and quotas and controlling fishing effort; Technical conservation measures (e.g. mesh sizes); and management of data; and

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3 Council Regulation (EC) No 423/2004 establishing measures for the recovery of cod stocks
4 Regional Advisory Councils (RACs), Management Committee for Fisheries and Aquaculture and Fishing industry representatives
• within monitoring and enforcement policy: revision of basic regulations on monitoring; electronic recording; catch reporting obligations, and fishing outside Community waters.

10. The Agriculture and Fisheries Council held an exchange of views on the action plan at its April 2005 meeting and the European Parliament gave its opinion on the plan on 6 September. The Commission will provide an update on progress during each Presidency.

AGRICULTURE AND RURAL DEVELOPMENT

Rural Development
1. The use of money from the second pillar of the CAP is governed by EU regulations. These require Member States to draw up multi-annual programmes setting out how they intend to use rural development money. A new programme will begin in 2007 and run until 2013. The regulation which governs rural development spending during this period contains 42 different options for spending. These options are grouped under 3 axes. Member States must spend a specified minimum proportion on each axis as follows:

• Axis 1 improving the competitiveness of the agricultural and forestry sector (10%);

• Axis 2 improving the environment and countryside by supporting land management (25%); and

• Axis 3 improving the quality of life in rural areas and encouraging diversification and growth of economic activity (10%).

2. There is also a requirement to allocate 5% of total spending to local rural development projects administered by local partnerships (the LEADER approach). The EU regulation requires the European Commission to produce strategic guidelines, which Member States must follow in drawing up their rural development programmes. Beyond these requirements, Member States are free to decide which of the 42 measures they choose to fund. Member States can implement the rural development regulation at regional level, and in the UK, separate plans will be produced by the Scottish, English, Welsh and Northern Irish administrations.

3. The Executive held two public consultations on how it would use EU rural development money from 2007-13 and is now drawing up a plan which it will present to the European Commission. The Executive has indicted that it is committed to delivering support to farmers through Land Management Contracts. These will have 3 tiers:

• Tier 1 is the Single Farm Payment (Pillar 1 of the CAP);

• Tier 2 is a menu of options available to all farmers; and

• Tier 3 is made up of schemes which farmers can apply to enter on a competitive basis, or for which only certain farmers are eligible.

4. Tiers 2 and 3 will both be funded from the 2007-13 rural development plan.
**Budget**

5. Uptake by the UK administrations of discretionary spending from the EU has historically been low, as this reduces the UK’s overall budget rebate. Rural development money from 2000-06 was shared out largely according to historic spend, which meant that the UK, and hence Scotland, received a small share of EU15 rural money, around 3% compared with around 7% which may have been expected if considered against objective criteria such as agricultural area. The accession of 10 Central and Eastern European countries to the EU in 2004 has increased the call on the rural development budget. In addition, the European Council chose to reduce the amount the European Commission had suggested for the rural development budget line, when agreeing the EU budget in December 2005.

6. The Executive explained in its consultation document that the effect of this would be to reduce the allocation of EU funds for the Scottish programme by approximately 20%. However, the Executive explained that this reduction would be mitigated by the fact that only 30% of the spending under the 2000-06 plan was EU money.

7. It is possible to augment the EU money available for rural development by modulation, which moves money from pillar 1 of the CAP to pillar 2. UK administrations agreed a national modulation rate of 2.5% in 2001, rising to 4.5% in 2006. As part of 2003/4 CAP reforms, EU-wide compulsory modulation was introduced in 2005 at 3%, rising to 5% in 2007. In implementing the reforms, the Executive decided to go further, and increase national modulation so that the combined rate was 10% from 2007, with a commitment to modulate more if the required funds could be obtained from the UK spending review.

8. As part of the December 2005 EU budget deal, it was agreed that Member States could introduce voluntary national modulation at a rate of up to 20%, crucially without the need for national match funding. The Executive stated in the consultation that it would introduce stepped increases in voluntary modulation from 2007-13. The funds available from the programme in Scotland will not be clear until the rate of modulation is agreed. This is currently the subject of discussion at the European Commission and the European Parliament.

**Less Favoured Area Scheme**

9. As part of the negotiations on the Rural Development Regulation, it was agreed that the support available for Less Favoured Areas would be reviewed in 2009, with a view to changing the rules from 2010 onwards. The Executive has proposed to implement a simplified LFA scheme for 2007, 2008 and 2009, with farmers being paid on the basis of what they had received in previous years.

**Future plans**

10. A menu scheme of Tier 2 measures for land management contracts was introduced in 2005, and contained 17 different options for which all farmers would be eligible for funding. In its consultation, the Executive said it would continue with a similar menu of options for 2007-13 for Tier 2.

11. The Executive is also considering the range of schemes which could go to make up Tier 3 and listed the following schemes in its consultation document:

- Rural Stewardship Scheme
- Organic Aid Scheme
- Farm Business Development Scheme
- Agricultural Business Development Scheme
• Scottish Forestry Grants Scheme Farmland Premium
• Scottish Forestry Grant Scheme (in part)
• Scottish Natural Heritage Natural Care Scheme (in part)
• Crofting Counties Agricultural Grant Scheme
• Crofters Cattle Quality Improvement Scheme
• Crofting Counties Development Scheme
• Agriculture Processing and Marketing Grants
• Scottish Rural Partnership Fund

On 1 November the Minister for Environment and Rural Development announced that the funds for the crofting schemes would be kept distinct and not included in the general Tier 3 pot available to all farmers to apply for.

12. There is concern that delays on decisions about financing the Scottish programme, and in finalising its content before it can be submitted to the European Commission for approval, might mean that payments from some of the schemes are delayed in 2007. The ongoing discussions on the rural development programme, and modulation in particular, means that the 2007 LFA payments are unlikely to be made until the autumn (rather than the spring as in the past). On 1 November the Minister for Environment and Rural Development announced that an additional payment of £10million (representing a pro rata payment of 16% of the expected amount to LFA receipts) would be made in early 2007 in recognition of financing costs arising from this change in the payment pattern. At the time of writing further discussions on the payment are continuing with stakeholders.

13. There are also concerns that one of the current agri-environment schemes, the Rural Stewardship Scheme, is heavily over-subscribed, and that the new rural development plan for Scotland will need to include a revised approach.

ENVIRONMENT

Policies and Strategies

Bioenergy
1. In June 2006 EU energy ministers finalised their position on an action plan for biomass energy and supporting strategy on transport biofuels. This states that a balance should be sought between energy and non-energy uses of biomass, and between domestic production and imports of biomass for energy. The resolution welcomes a series of Commission proposals to change EU policy or legislation to support greater biomass energy use. Among these are extension of EU support for energy crops, examination of how biofuel use can count towards motor industry commitments on reducing CO2 emissions and review and development of technical standards for biofuels.

2. The first progress report on Biofuels Directive 2003/30/EC is due to be published by the Commission in December 2006. It is likely that this will propose an upwards revision to current EU target for biofuels as a proportion of all transport fuels. In March 2006, EU heads of government backed the idea of an 8% target by 2015, compared with the current goal of 5.75% by 2010.

Chemicals Policy (REACH)
3. The European Parliament and the Council reached a common position on REACH on 27 June 2006. Further stages in the Parliament and Council are expected to be
completed in time to all entry into force of the Regulation expected for spring 2007. There will then be an additional year before main REACH procedures begin to apply in order to allow a European Chemicals Agency to become fully operational.

**LIFE+ Environment Programme 2007 – 2013**

4. LIFE III, the EU’s main environment funding programme finishes at the end of 2006 and will be succeeded by a new instrument, LIFE+. This instrument brings together aspects of the current LIFE-Environment and LIFE-Nature Programmes, Forest Focus, the Urban Programme and a number of other smaller funding streams from the DG Environment. The European Parliament examined the Council’s common position concerning LIFE+ on 25/26 October 2006, and rejected key elements of the ministerial common position. MEPs supported the stance adopted by the Parliament’s Environment Committee on 14 September 2006 which opposed attempts by EU governments to devolve at least 80% of the LIFE+ budget to Member State control.

5. Current proposals, which the European Parliament has rejected, include an allocation of funding on a Member State basis as opposed to the previous competitive EU-wide bid system. Under the formulae used the UK would receive an allocation of approximately £10 million per annum – this would need to be partially match funded by project applicants giving a total of £140 million over the programme period 2007-2013. EC retention of the budget would result in continuation of a highly competitive bidding process. Proposals to limit allocation of Nature & Biodiversity funding to 40% would also present greater competition for specific funding associated with the Natura 2000 network.

**Directives**

**Environmental Liability Directive**

6. Adopted in 2004, EU Directive 2004/35/EC is potentially one of the EU’s most far reaching environment policies. It sets out rules for remediating environmental damage to water, land and biodiversity and recovering the costs from polluters. The implementation deadline is April 2007. The Executive is expected to publish a consultation on its implementation before the end of 2006.

**Thematic Strategies - 6th Environmental Action Programme (EAP)**

**Thematic Strategy on Soil Protection**

7. The thematic strategy on soil protection, including a proposal for a framework directive, was launched on 22 September. This sets out a 10-year programme to prevent further soil degradation by obliging Member States to identify all areas at risk of soil degradation, and to specify risk reduction targets and timetables, as well as the measures necessary to achieve them.

8. Member Stages must also draw up public inventories of contaminated sites, and establish national remediation strategies to address them, starting with sites that pose the greatest risk to health. When selling sites where "potentially polluting activities" are based, a soil status report based on chemical analysis must be drawn up. Legally binding soil quality targets and timetables have not been set.
Thematic Strategy on Air Pollution

9. The legislative process on the thematic strategy on air pollution is continuing. The Council reached political agreement on the draft directive on ambient air quality and cleaner air for Europe at its meeting on 23 October. The aim of the draft directive is to revise the current ambient air quality legislation, comprising two main elements - the merging of five legal instruments into a single directive, and the introduction of air quality standards for fine particulate matter (PM$_{2.5}$) in the air. Parliament is expected to find common ground with the Council when the directive undergoes its second reading under the co-decision procedure, likely to take place before June 2007. The limit on PM$_{2.5}$ concentrations introduced by the new directive would be 25 micrograms per cubic metre, averaged over a year, with effect from 1 January 2015.

Thematic Strategy on the Protection and Conservation of the Marine Environment

10. The marine environment framework directive and the marine strategy were debated by the Environment Council on 23 October. The Environment Council is yet to adopt a common position on the directive but may do so on 18 December. The Executive has identified this issue as one of its key priorities.

11. The European and External Relations Committee (in conjunction with Scotland Europa) is hosting a conference in the Scottish Parliament on Monday 4 December. The aim of the conference is to bring MSPs together with stakeholders from a wide range of marine interests to consider the EU's consultation on its maritime policy green paper “Towards a future Maritime Policy for the Union: A European vision for the oceans and seas” which was published in June. Members of the Environment and Rural Development Committee will be invited to this event, and one of the workshops during the conference will consider the environment and sustainable development. The marine environment is one aspect of the EU's proposed maritime policy.

Thematic Strategy on the prevention and recycling of waste

12. Discussions are continuing on the revision of the Waste Framework Directive which is the core of the Thematic Strategy on the prevention and recycling of waste. The Executive has identified this issue as one of its key dossiers. The intention of the revision is to shift the focus from waste disposal up the “waste hierarchy” to waste recovery and recycling, and waste prevention. The details remain unclear at present. However, the Executive states that the proposed new arrangement is expected to deliver greater regulatory certainty on what is covered by waste legislation.
Draft Guidance laid before the Scottish Parliament on 24 October 2006 under section 89(11) of the Environmental Protection Act 1990; the draft to lie for 40 days during which period the Scottish Parliament may resolve that the Guidance may not be issued

Environmental Protection Act 1990:
Code of Practice on Litter and Refuse (Scotland) 2006
Scottish Executive Environment Group

Code of Practice on Litter and Refuse issued under section 89 of the Environmental Protection Act 1990

October 2006
SE/2006/164
Environmental Protection Act 1990:

Code of Practice on Litter and Refuse (Scotland) 2006

Code of Practice on Litter and Refuse issued under section 89 of the Environmental Protection Act 1990

Laid before the Scottish Parliament by the Scottish Ministers in pursuance of section 89(7) of the Environmental Protection Act 1990.

SE/2006/164
Environmental Protection Act 1990:

Code of Practice on Litter and Refuse (Scotland) 2006

Introduction

The Environmental Protection Act 1990 (the Act) imposes a duty on local authorities and certain other landowners and occupiers (the duty bodies) to keep specified land clear of litter and refuse so far as is practicable. The Act also places a duty on local authorities or Scottish Ministers to keep public roads clean so far as is practicable. This publication provides practical guidance on the discharge of these duties.

The first part of this publication is a Code of Practice issued under section 89(7) of the Act. Where land is defaced by litter or refuse and action is taken in court under section 91 or 92 of the Act, this Code of Practice is admissible in evidence in the proceedings.

The Code of Practice defines standards of cleanliness which are achievable in different locations and under differing circumstances. It is concerned with how clean land is, rather than how often it is swept. The Code of Practice does not, therefore, suggest cleaning frequencies. Rather, it sets out how quickly different types of land should be returned to a set cleanliness standard.

The second part of this publication provides guidance on ensuring litter management is approached in an holistic manner, tackling service provision, awareness raising and campaigning, and enforcement. Advice is given in a menu of options for tackling litter problems in a variety of areas, from town centres to beaches. An holistic approach to litter management has a range of benefits for service providers, the public, the business community and enforcement agencies:

- each knows what to expect of service providers and what is expected of them in turn,
- each duty body knows the minimum level of service required and their own individual obligations
Parts I and II of this publication are supported by Part III which is a web-based good practice guide. This guide can be viewed at www.littercode.org.

The production of this Code of Practice follows a review of the litter and flytipping provisions of the Act by the consultants, Environmental Resources Management (ERM), commissioned by the Scottish Executive. An Advisory Group consisting of representatives from COSLA, the Scottish Environment Protection Agency (SEPA), Keep Scotland Beautiful and the Scottish Executive oversaw the review. The review found that there are no fundamental difficulties with litter legislation, but that straightforward, clear guidance should be provided.

Following this review, Keep Scotland Beautiful was commissioned to co-ordinate the updating of the Code of Practice. This process involved a year-long consultation exercise with all Scottish local authorities and other duty bodies, as well as enforcement bodies, other interested parties and bodies that could, potentially, have duties under the code.

In the main, the standards of cleanliness, zoning and response times remain unchanged, although the information relating to non-local authority duty bodies has been clarified. Part II now includes information relating to education, campaigning, and, specifically, enforcement options. Part III is now a supporting web-based good practice guide.

This Code of Practice is issued in replacement of the Code of Practice 1999, which is hereby withdrawn in respect of Scotland.
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PART I

Introduction

The objective of the Code of Practice is to provide practical guidance on the discharge of the duties under section 89 of the Environmental Protection Act 1990 by establishing reasonable and generally acceptable standards of cleanliness which those under the duty should be capable of meeting.

The Code of Practice is based on the following two principles:

- Areas which are habitually more heavily trafficked should have accumulations of litter cleared away more quickly than less heavily trafficked areas; and
- Larger accumulations of litter and refuse should be cleared more quickly than smaller accumulations.

The Code of Practice provides a cleanliness standard based on land use. It sets out grades of cleanliness and divides land into zones according to usage and volume of traffic. If the cleanliness of an area falls, the Code of Practice sets out a response time that is the target for the duty body to restore the land to a particular grade of cleanliness.

The Code of Practice is concerned with output rather than input standards – how clean land is, rather than how often it is swept. It does not suggest cleaning frequencies; it simply defines certain standards that are achievable in different circumstances. This may mean that an area which generally escapes littering will seldom need to be swept, whereas a litter blackspot will need more frequent attention. The Code of Practice offers considerable scope for local authorities and other duty bodies to target resources to areas most in need of them, rather than sweeping a street because of the dictates of an arbitrary rota. Expressed in its simplest terms, “If it isn’t dirty, don’t clean it.”

Definition of Litter and Refuse

The Act does not provide a definition of litter or refuse, although the courts have considered the definition to be wide. Section 87 of the Act, in defining the offence of leaving litter, states that litter is anything that is thrown down, dropped or deposited and left that causes defacement, in a public place by any person. This accords with the popular interpretation that, “litter is waste in the wrong place”.

Section 86(14) allows Scottish Ministers to specify descriptions of animal droppings which are to be treated as refuse and section 89(4) allows Scottish Ministers to prescribe matter of any description which, if on a road, is to be treated as litter or refuse. An order has been made under section 86(14), The Litter (Animal Droppings) Order 1991 (S.I.1991/961), which defines dog faeces as refuse when on certain descriptions of public land. No regulations have so far been made under section 89(4).

Litter does not include detritus or recent leaf and blossom fall. Chewing gum which has adhered to hard surface areas is not assessed for the purpose of cleansing statistics relating to statutory performance indicators. Nevertheless, duty bodies should be aware that there are no apparent legal reasons why persons aggrieved by litter should not obtain an order under section 91 of the Act requiring the cleaning of even hard adhered chewing gum. (Please note that the dropping of gum is an offence – see Part II of this Code of Practice). Nor does litter include flytipped material which comprises inappropriately disposed or dumped household, commercial or industrial waste.

The Duties

Section 89(1) of the Act places a duty on certain bodies (the duty bodies) to keep their relevant land clear of litter and refuse so far as is practicable. The Anti-social Behaviour etc. (Scotland) Act 2004 gives Scottish Ministers powers to direct local authorities (and others) in the performance of this duty.

In most cases, relevant land is land which is open to the public, is open to the air and which is under the direct control of the duty body. Section 89(2) also creates a duty in respect of most public roads in Scotland to keep them clean so far as is practicable. Appendix 1 gives more information about which bodies have the duty and to which land the duty applies.

This duty can also be extended onto the owners and/or occupiers of certain types of littered land to which the public have access through the designation of Litter Control Areas (see appendix 2 for further details).
Grades of Cleanliness

The Code of Practice is based on the concept of four standards, or grades, of cleanliness:

- **GRADE A**: no litter or refuse;
- **GRADE B**: predominantly free of litter and refuse, apart from a few small items
- **GRADE C**: consistent distribution of litter and refuse with minor accumulations; and
- **GRADE D**: heavily littered with significant accumulations.

Whilst it is obvious that Grade A is the ideal, it is not reasonable to expect that standard to be maintained at all times in all places; technical difficulties may make it impossible to achieve in some circumstances, and it is unlikely to be maintained for long periods in the most heavily trafficked areas. Grade A should be seen as the standard which thorough conventional sweeping should achieve in most circumstances.

It is for the courts to decide the size of areas to be considered for the purposes of assessing defacement by litter and refuse, where relevant by comparing photographic evidence with the photographic examples in the Code of Practice, and considering any directions by the Scottish Ministers. However it is suggested that for streets, a realistic area to be considered should be in the order of 50 metres in length and include the back line, through to and including the channel or gutter.

Photographic examples and more detailed descriptions of Grades in various zones are at appendix 3.

**Zones**

Zoning is based on location and land use. The Code of Practice, therefore, divides land types into 12 broad categories or zones according to land usage and volume of traffic. Within the broad descriptions of zones set out below, it will be for the local authority or other duty body to allocate geographical areas to particular zones. The duty body should take a common sense approach to zoning. For example it is preferable not to divide a short street into three different zones simply because there is a variety of types of building and usage in the street. In such a case, one zone should be chosen and this should reflect the predominant use.
The zoning requirement has been in place since 1991 and it is for the duty body to allocate their land to the zones and to publicise these. It is clear that this allocation must be given due publicity, not least to avoid unjustified complaints, although how it chooses to do so will be a matter for each individual body under the duty. Annotated maps in council offices and libraries may be appropriate. Section 95 of the Act requires certain local authorities to keep a register in which are recorded details of land which has been designated a ‘Litter Control Area’ and where Street Litter Control Notices have been issued. Duty bodies could use a similar arrangement to publicise their zoning.

Zone 1
- town centres, shopping centres and shopping streets
- major transport centres
- central car parks
- other busy public places
- local roads around large secondary schools and FE colleges (1000+ students)
- local roads within these areas

Zone 2
- high density residential areas (terraced, tenemental and flatted housing)
- busy recreational land
- suburban car parks and transport centres
- high density industrial estates
- local roads around primary schools and small secondary schools (<1000 students)
- local roads within these areas

Zone 3
- low density residential areas
- other recreational land including picnic areas and laybys
- other transport centres
- low density industrial estates
- high-technology business parks
- local roads within these areas

Zone 4
- rural / semi rural roads that do not directly link towns and villages
- public areas in and around rural and small suburban railway stations

Zone 5
- amenity beaches
- recreation beaches
- sensitive conservation areas
- other beaches
Zone 6  motorways
    strategic routes
Zone 7  rural roads linking towns and villages
Zone 8  relevant land of designated educational institutions
Zone 9  operational railway land
Zone 10 canal towpaths to which the public has access
Zone 11 land attracting large numbers of people for specific events only

It should be noted that zoning should be reviewed periodically to ensure that it is appropriate and to reflect changes in land use. It is recommended that re-zoning be done after a period of consultation.

Any person under the duty, other than a local authority, should consult the local authority when changing an existing zone or zoning previously unzoned areas.

Cleanliness Standards
A table detailing the zones with cleanliness standards and timescales are at appendix 4

1 - the zones which apply most generally, including town centres and residential areas.

2 – beaches

3 – local roads, trunk roads and motorways

4 – land of designated educational establishments

5 - railway land including public areas and specified operational land

6 - canal towpaths to which the public has access
Practical Issues

The time periods given in the table in appendix 4 are maximum response times for cleaning an area which has become littered. They do not represent intervals between cleansing, which in many cases could be longer.

To assist in making LEQ improvements duty bodies are encouraged to make arrangements to remove litter and refuse from any hedge or fence adjoining the relevant land or road, where it is accessible and visible from such land or road.

Duty bodies may wish to apply faster recovery times on sports pitches and enclosed children’s play areas than required by the Code of Practice, given the nature and use of such places.

The caveat in the litter duty concerning practicability is very important. The duty applies seven days a week, however, on some occasions, circumstances may render it impracticable for the body under the duty to discharge it. It is for the courts to decide whether or not it was impracticable for a person under the duty to discharge it. In addition, in zones 1 to 4 the period from 8pm to 6am is to be discounted for the purposes of assessing compliance with the standard. Where the standard in a zone 1 area has fallen to grade B or below during this period it must be restored to grade A by 8am.

In discharging duties in relation to roads care should always be taken to ensure that debris, detritus and other materials are not left to become a danger to road users by accumulating to: block channels, gullies and cause flooding; encourage weed growth; or become compacted. Seasonal variations of such accumulations should be taken into consideration when formulating cleaning regimes. Duty bodies must be aware that litter clearance and street cleansing responsibilities include treatment of traffic islands, central reservations and off-side kerbs, verges, and hard shoulders, where provided.

Where there is an accumulation of material which is potentially hazardous to health (for example waste food), duty bodies should make every effort to remove this within a shorter timescale than is specified in the Code of Practice.
In discharging the duty in relation to railways or canals, where the origin of the litter is external to railway or canal activities, the duty body may consider it appropriate to make clearance arrangements on a partnership basis involving the railway or canal undertaking, local authorities and amenity groups. Although clearance standards and response times should be adhered to so far as is practicable, it is recognised that access, safety and traffic movement may sometimes preclude full adherence. In order to recover the position, the first practicable opportunity should be taken to undertake litter clearance in conjunction with track maintenance work.

Examples where it may be considered impracticable to comply with duty timescales for all duty bodies include:

- when there are severe weather conditions;
- when special events prevent access to the duty land;
- to avoid damage to sensitive habitats.

It may also not be considered practicable to expect bodies to meet the duty on Christmas day and/or New Years day. However every effort must be made to clear the land at the earliest opportunity.
<table>
<thead>
<tr>
<th><strong>Glossary</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Amenity Beach</td>
<td>Beach adjoining an identified bathing water.</td>
</tr>
<tr>
<td>Detritus</td>
<td>Detritus comprises dust, mud, soil, grit, gravel, stones, leaf and blossom fall, plant residues and fragments of twigs and other finely divided materials.</td>
</tr>
<tr>
<td>Duty body</td>
<td>A body with a duty to comply with the requirements of this Code of Practice</td>
</tr>
<tr>
<td>Flytipping</td>
<td>Material comprising inappropriately disposed or dumped household, commercial or industrial waste.</td>
</tr>
<tr>
<td>LEQ</td>
<td>Local Environmental Quality</td>
</tr>
<tr>
<td>Litter</td>
<td>The Act does not provide a definition of litter or refuse, although the courts have considered the definition to be wide. Section 87 of the Act, in defining the offence of leaving litter, states that litter is anything that is thrown down, dropped or deposited and left that causes defacement, in a public place by any person. This accords with the popular interpretation that, “litter is waste in the wrong place”.</td>
</tr>
<tr>
<td>Open to the air</td>
<td>Open to the air on at least one side (notwithstanding that it may be covered)</td>
</tr>
<tr>
<td>Other beach</td>
<td>Beach named on OS map</td>
</tr>
<tr>
<td>Putrescible</td>
<td>Will naturally decompose or rot</td>
</tr>
</tbody>
</table>
Recreation Beach
Managed beach, Seaside Award beach, beach adjoining SEPA sampled waters

Refuse
In the context of this Code of Practice the use of the term refuse includes dog fouling.

Sensitive Conservation Area
SSSI, SAC, nature reserve

Statutory undertaker
The Litter (Statutory Undertakers) (Designation and Relevant Land) Order 1991, modified by The Railways Act 1993 (Consequential Modifications) Order 1999, makes provision as to the application of Part IV of the Environmental Protection Act 1990 (Litter, Etc) to statutory undertakers. Article 2 designates statutory undertakers for the purposes of Part IV.
Appendix 1

RELEVANT LAND OF PRINCIPAL LITTER AUTHORITIES

Under section 86(2), principal litter authorities in Scotland are councils under the Local Government etc. (Scotland) Act 1994 and Joint Boards.

In broad terms, relevant land of a principal litter authority is land, other than highways or educational land:

- which is open to the air on at least one side;
- which is under the direct control of the principal litter authority; and
- to which the public is permitted or entitled to have access.

RELEVANT LAND OF CROWN AUTHORITIES

Broadly Crown authorities have a duty in respect of their land which is open to the air and to which the public are permitted or entitled to have access (section 86(5)).

RELEVANT LAND OF DESIGNATED STATUTORY UNDERTAKERS

Broadly, designated statutory undertakers have a duty under section 86(6) in respect of land which is under their direct control to which the public are permitted or entitled to have access. The Litter (Statutory Undertakers)(Designation and Relevant Land) Order 1991 (S.I.1991/1043) designates certain transport-related undertakers as statutory undertakers for the purposes of the litter duty. These include persons authorised by any enactment to operate anything such as a railway, light railway, tramway, road transport undertaking (other than taxi or hire cars), canal, port, dock, harbour, pier or airport. This Order also sets out land which is and is not to be treated as relevant land of designated statutory undertakers. The 1991 Order has been modified by The Railways Act 1993 (Consequential Modifications) Order 1999 to place a litter duty on certain successors to the British Railways Board - essentially, operators of the British Railways Board's former railway network, operators of stations which are used in connection with that network, and operators of light maintenance depots - to ensure these companies fall within the definition of persons authorised by any enactment to carry on a railway undertaking.

It should be noted, unlike other bodies with a litter duty, railway operators have a duty in respect of certain land to which the public are not permitted or entitled to have access, such as tracks and track sides near stations and in urban areas, in addition to their public land.
RELEVANT LAND OF EDUCATIONAL INSTITUTIONS

The duty applies to land in the open air and which is under the direct control of the governing body or local education authority of designated educational institutions. Broadly, universities, publicly funded colleges of higher or further education and schools are designated for the purpose of the duty, but for full details see section 98(2) and (3) and the Litter (Designated Educational Institutions) Order 1991 (S.I.1991/561).

RELEVANT ROADS WHICH ARE THE RESPONSIBILITY OF THE LOCAL AUTHORITY

In Scotland, relevant road is defined in section 86(10) as every public road other than a trunk road which is a special road. Councils and Joint Boards in whose area the relevant road is situated have the duty under section 89(1)(a) and section 89(2)(a).

Scottish Ministers may, in certain circumstances, transfer responsibility to the roads authority by Order under section 86(11).

RELEVANT HIGHWAYS/ROADS WHICH ARE THE RESPONSIBILITY OF SCOTTISH MINISTERS

Scottish Ministers have the duty under section 89(1)(b) & section 89(2)(b) with respect to any trunk road which is a special road and any relevant road for which they are responsible.

RELEVANT LAND WITHIN A LITTER CONTROL AREA

Principal litter authorities (other than Joint Boards) may impose a duty on occupiers of other publicly-accessible land by designating that land as a ‘litter control area'. Local authorities can only designate Litter Control Areas where the local authority is of the opinion that:

- because of the presence of litter or refuse, the condition of the land is detrimental to the amenities of the locality; and
- without the designation, the condition of the land would continue to be detrimental to the amenities of the locality.

The Litter Control Areas Order 1991 (S.I.1991/1325), as amended by The Litter Control Areas (Amendment) Order 1997 (S.I.1997/633), sets out the descriptions of land which can be designated as a Litter Control Area. These include public car parks, shopping centres, business
parks, cinemas, theatres, sports facilities, as well as public open-air land under the direct control of a number of bodies such as National Park Authorities and health service bodies. It is also possible to designate land on which a market is held, other than land forming part of a road. It is not possible to designate land which is subject to a duty under section 89(1) of the 1990 Act.
Appendix 2
Litter Control Areas

Principal Litter Authorities can, by order, designate certain types of littered land to which the public have access, Litter Control Areas. No order can be made unless the authority is of the opinion that, by reason of the presence of litter or refuse, the condition of the land is, and unless they make a designation order is likely to continue to be, such as to be detrimental to the amenities of the locality.

Unlike other notices, the power to make a designation order cannot be delegated – this must have full council approval. An authority proposing to make a designation order must notify persons who will be affected by the order and give them the opportunity to make representations about it within 21 days beginning with service of the notice. Their representations should also be taken into account when designating the order.

The types of land that can be designated as Litter Control Areas include car parks, retail parks, business parks, industrial estates, cinemas, bingo halls, beaches, marinas, amusement arcades, motorway service stations and picnic areas. For full details refer to the Litter Control Areas Order 1991 (S.I. 1991 No. 1325) and The Litter Control Areas (Amendment) Order 1997 (S.I. 1997 No. 633) full details of which can be found in Part III of the code at www.littercode.org.

A Litter Control Area Designation Order should be laid out as follows:
LITTER CONTROL AREA DESIGNATION ORDER

THE ENVIRONMENTAL PROTECTION ACT 1990

The (a), being of the opinion that by reason of the presence of litter refuse, the condition on the land described in paragraph 2 of this Order is, and unless they make a designation order is likely to continue to be, such as to be detrimental to the amenities of the locality, hereby make the following Order under section 90(3) of the Environmental Protection Act 1990:-

1) The Order may be cited as the shall have effect from (b) And (c)
2) The land which – (d) the map executed as relative to and (a) and marked “Map forming part of the (b), and
i) Is delineated and shown (d) the map executed as relative to and forming part of this Order, (a) and marked “Map forming part of the (b), and
ii) Is briefly described in the Schedule to this Order,
Is designated as the Litter Control Area for the purpose of Part IV of the Environmental Protection Act 1990.

SCHEDULE

(e)

Date
Notes on the use of this form

(a) Insert name of the principal litter authority making the order

(b) Insert title of the Order, which should indicate the general area within the designated land, is situated

(c) Insert date (which should be a date after the day on which the designated order is made) on which the designation order is to take effect.

(d) Describe the colouring or either method used to identify the land on the map. The boundaries of the land should be clearly delineated and the map should contain sufficient detail to enable the situation of the land to be readily identified by reference to the description given in the schedule.

The description of the land should contain sufficient detail to tell the reader approximately where the land is situated without reference to the map.
Appendix 3

Descriptions and photos of Grades

The photographs below are provided for general guidance only. More detailed information, including photographs of grades in a variety of zones, is available in Part III.

**Grade A**

A Grade A area has no litter or refuse, it is the standard which thorough conventional sweeping/litter-picking should achieve.

**Grade B**

A Grade B area is predominantly free of litter and refuse apart from a few small items.
Grade C

A Grade C area has a consistent distribution of litter and refuse with minor accumulations. Where a street is littered to this degree accumulations at the back line will be common.

Grade D

A Grade D area is heavily littered with significant accumulations.
## Appendix 4

### Cleanliness Standards

<table>
<thead>
<tr>
<th>Category Zone</th>
<th>CLEANLINESS STANDARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 TOWN CENTRES ETC.</td>
<td>A 6hrs, B 3 Hrs, C 1 Hr</td>
</tr>
<tr>
<td>2 HIGH DENSITY RESIDENTIAL ETC.</td>
<td>A 12 Hrs, B 6 Hrs, C 3 Hrs</td>
</tr>
<tr>
<td>3 LOW DENSITY RESIDENTIAL ETC.</td>
<td>A 2 weeks, B 12 Hrs, C 6 Hrs</td>
</tr>
<tr>
<td>4 AREAS NOT FALLING INTO ZONES 1-3</td>
<td>A 2 weeks, B 1 week, C 60 Hrs</td>
</tr>
<tr>
<td>5a BEACHES (Amenity Beaches)</td>
<td>1st June to 15th September 48 Hrs, 16th September to 31st May 4 weeks</td>
</tr>
<tr>
<td>5b BEACHES (Recreation Beaches)</td>
<td>1st June to 15th September 1 week, 16th September to 31st May 4 weeks</td>
</tr>
<tr>
<td>5c BEACHES (Sensitive Conservation Areas)</td>
<td>Monthly hand picking of litter</td>
</tr>
<tr>
<td>5d BEACHES (Other Beaches)</td>
<td>AS NECESSARY</td>
</tr>
<tr>
<td>6a MOTORWAYS &amp; STRATEGIC ROUTES (Hard Surface areas)</td>
<td>A 4 weeks, B 1 week</td>
</tr>
<tr>
<td>6b MOTORWAYS &amp; STRATEGIC ROUTES (Grassed areas)</td>
<td>A 4 weeks, B 1 week</td>
</tr>
<tr>
<td>7a LOCAL ROADS (Hard Surface Areas)</td>
<td>A 2 weeks, B 5 days</td>
</tr>
<tr>
<td>7b LOCAL ROADS (Grassed Areas)</td>
<td>A 2 weeks, B 5 days</td>
</tr>
<tr>
<td>8a EDUCATIONAL INSTITUTIONS (Hard Surface Areas) (Term Time)</td>
<td>A 24 Hrs, B 24 Hrs</td>
</tr>
<tr>
<td>8b EDUCATIONAL INSTITUTIONS (Grassed Areas) (Term Time)</td>
<td>A 24 Hrs, B 24 Hrs</td>
</tr>
<tr>
<td>No.</td>
<td>Area Description</td>
</tr>
<tr>
<td>-----</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8c</td>
<td>EDUCATIONAL INSTITUTIONS (With community facilities) (Hard Surface Areas)</td>
</tr>
<tr>
<td>8d</td>
<td>EDUCATIONAL INSTITUTIONS (With community facilities) (Grassed Areas)</td>
</tr>
<tr>
<td>9a</td>
<td>OPERATIONAL RAILWAY LAND Within 100M of Platform Ends</td>
</tr>
<tr>
<td>9b</td>
<td>OPERATIONAL RAILWAY LAND Within Urban Areas Other than in 9a</td>
</tr>
<tr>
<td>9c</td>
<td>OPERATIONAL RAILWAY LAND All other areas</td>
</tr>
<tr>
<td>10a</td>
<td>CANAL TOWPATHS (Paved Areas)</td>
</tr>
<tr>
<td>10b</td>
<td>CANAL TOWPATHS (Grassed or Non-Paved Areas)</td>
</tr>
<tr>
<td>11</td>
<td>PUBLIC LAND ATTRACTING LARGE NUMBERS OF PEOPLE</td>
</tr>
</tbody>
</table>
Environmental Protection Act 1990:

Code of Practice on Litter and Refuse (Scotland) 2006

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Introduction

Part II of the Code of Practice is concerned with ensuring litter management is approached holistically. It describes evaluation, awareness raising and action, and enforcement to complement the service provision detailed in Part I.

In addition, when problems arise, Part II details the process through which matters can be resolved and, if required, enforcement action can be taken. Guidance is provided for the following:
- general information for the public (see appendix 1)
- specific information for regulatory bodies
- information in relation to non-relevant land and options for problems on private land (see appendix 2).

Part II is intended to be a guide to reviewing policies and practices for litter management. Individual duty bodies must decide whether this is the right approach for their particular circumstances.

Evaluation

The first step to making improvements in litter management is to quantify the problem to be addressed, “If you can’t measure it, you can’t manage it.” Evaluation may include a variety of options:
- litter management operations reviews
- cleanliness monitoring
- attitude and awareness surveys
- stakeholder consultations.

Litter management operations reviews can often identify ways to increase the effectiveness of service delivery. This may be, for example, by combining the street cleansing and grounds maintenance operations, by reducing service levels in areas with low littering, by introducing more mechanical sweeping to suitable areas and re-deploying street cleansing orderlies.

Cleanliness monitoring can be achieved by a variety of methods and will allow the actual standards in the street to be assessed, rather than the public or local authority perception of the standards. In recent years, the Local Environmental Audit and Management System (LEAMS)
has been adopted as the statutory performance indicator for cleanliness standards by Audit Scotland and as such must be used by all 32 Scottish local authorities to assess cleanliness standards. LEAMS is the recommended minimum level of cleanliness monitoring required to measure cleanliness levels and assess improvements over time, over a council-wide area. More detailed forms of monitoring are available to provide a fuller analysis of the cleanliness standards in smaller geographical areas, such as ward level or community level. See appendix 3 for further details on cleanliness monitoring systems.

Attitude and awareness surveys can be useful in improving litter management operations by providing feedback to the local authority on its litter policies and services, establishing public perception of the litter problem and evaluating the effectiveness of campaigns. Several attitude and awareness surveys have been carried out at a national level covering the issues of litter and dog fouling in particular. For example, the Scottish Executive research report ‘Public Attitudes to the Environment in Scotland 2002’ found that 89% of people in Scotland thought that litter was a big or a very big problem, with 69% thinking that the problem had increased over the previous five years. See appendix 4 for further information on research findings.

Stakeholder consultations are a more in-depth method of evaluating information on service delivery for local areas. They allow local residents to be directly involved in detailing what is important to them with regard to service delivery and to highlight local problem areas. They also facilitate the opportunity for increased levels of community involvement.

**Awareness raising and action**

Following evaluation of problem areas, each duty body should implement a programme of awareness raising and action which could include the following:

- **Publication of zoning information.** As detailed in Part I of the Code of Practice, the zoning requirement has been in place since 1991 and it is for the duty body to allocate their land to the zones and to publicise these. It is clear that this allocation must be given due publicity, not least to avoid unjustified complaints, although how the duty body does so will be a matter for the individual duty body to decide. Annotated maps in council offices and libraries or local press releases may be appropriate. Examples of good practice in this area are detailed in Part III of the Code of Practice which can be viewed at [www.littercode.org](http://www.littercode.org).

- **Publication of Litter Plans.** Duty bodies should inform local residents (or customers) of the standards of cleanliness that they can expect and the action to take if they are dissatisfied. It is suggested that duty bodies consider publishing this information in the
form of a litter plan which brings together all information on litter management in an area. A litter plan might include:

- The standards of cleanliness required, not just for street cleansing but also, where appropriate, housing estate management, grounds maintenance, parks and schools management (This could also be expanded to highlight the responsibilities of other duty bodies)
- Map(s) showing the zones allocated
- The policy on providing and emptying litter bins
- Complaints procedures
- Enforcement options being used in the area
- The steps being taken to change attitudes to littering, through campaigning, education and enforcement.

- **Complaints Procedures.** A duty body must provide sufficient information to members of the public to allow complaints to be made where they are dissatisfied with any part of the service delivery.

  This may be included in a Litter Plan or other document, but in any case, must provide information about the steps that will be taken to deal with the complaint, timescales for responses and be sufficiently publicised to be meaningful.

  Section 91 of the Act provides for summary proceedings for persons aggrieved by litter – see appendix 5.

- **In-house Training.** Duty bodies have a responsibility to ensure that their own staff, in particular their cleansing personnel, are aware of the cleanliness standards they are expected to achieve when carrying out street cleansing operations. An understanding of the enforcement options available to assist with resolving litter problems is also required.
Enforcement

A menu of options is laid out for the following situations / circumstances:

- town centre areas
- residential areas
- industrial areas
- out of town shopping areas
- schools / educational institutions
- beach areas
- statutory undertakers
- rural areas.
Town Centre Areas

Town centre areas have proved to require the highest levels of service delivery for street cleansing due to the high density populations using these areas, the concentration of businesses plus the daily influx of workers, shoppers and other users of town centre facilities. Over the last few years, cleanliness monitoring has shown that town centre areas have the highest percentage presence of pedestrian dropped litter, with 93% of sites surveyed in town centre areas having general litter present. Within the general litter category, smoking related litter is the most common type of litter found in town centre areas, observed in 87% of sites surveyed. This is followed by confectionery related litter, present in 51% of sites, drinks related litter, present in 31% of sites, and fast food litter, present in 10% of sites surveyed.

Detailed below is a list of options for dealing with different types of litter problems commonly found in town centre areas:

- general littering
- smoking related litter
- gum
- fast food waste
- overflowing / inadequately disposed commercial waste
- advertising materials
- abandoned shopping or luggage trolleys.

General Littering

Sections 87 and 88 of the Environmental Protection Act 1990 are the available enforcement options to deal with this issue.

Section 87 – The Offence of Leaving Litter

‘If any person throws down, drops or otherwise deposits in, into or from any place to which this section applies, and leaves, anything whatsoever in such circumstances as to cause, or to contribute to, or tend to lead to, the defacement by litter of any place to which this section applies, he shall, subject to subsection (2) below, be guilty of an offence.’

Subsection (2) – No offence is committed under this section where the depositing and leaving of the thing was:
- authorised by law
- done with the consent of the owner, occupier or other person or authority having control of the place in or into which that thing was deposited.

A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale – which is £2,500 as at 2006.

It should be noted that in the above extract, litter is described as anything thrown down, etc by any person.

Section 88 – Fixed Penalty Fine for Littering (as amended)

Where

(a) an authorised officer of a litter authority has reason to believe that a person has committed an offence under section 87 in the area of the authority; or
(b) a constable has reason to believe that a person has committed an offence under that section

he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

‘Where a person is given notice under this section in respect of an offence:
- no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice
- he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.’

The current level of the fixed penalty fine is £50. This was raised initially from £10 to £25 under the Litter (Fixed Penalty) Order 1996 and further to the current level by the Litter (Fixed Penalty) (Scotland) Order 2003. The form of the notice is given in the Litter (Fixed Penalty Notices) (Scotland) Order 2004. In Scotland, the revenue from the fixed penalty notices is retained by the litter authority.

Powers for police officers to issue Fixed Penalty Notices for littering were introduced by the Antisocial Behaviour etc. (Scotland) Act 2004, section 56, which amends section 88. A notice template for a section 88 Fixed Penalty Notice is attached in appendix 6.
If offenders do not take the opportunity to pay the Fixed Penalty Notice, they will be reported to the Procurator Fiscal for the section 87 offence.

There has been continuing debate about the range of circumstances in which the issuing of a Fixed Penalty Notice is appropriate. Appendix 7 shows a range of circumstances that are suitable as well as a range of circumstances where it is recommended that a section 88 Fixed Penalty Notice is not the most appropriate enforcement option. Please note that this list is not comprehensive but details a range of examples to clarify the types of situations where use of section 88 is appropriate.

**Youth enforcement**

The use of Fixed Penalty Notices in the case of offenders under the age of 16 has been the subject of debate since the introduction of the legislation. Section 88 of the Act provides the opportunity for an offender to discharge any liability to conviction by paying the fixed penalty. However, a child committing an offence under section 87 would generally not be liable to conviction. This offence is not one which should be reported to the Procurator Fiscal in terms of the Lord Advocate’s Directions as to the prosecution of children and therefore should be reported to the reporter only. Any decision of the reporter or children’s hearing does not result in conviction.

In addition, the Children (Scotland) Act 1995 requires that the following central principles be considered in reaching decisions: (a) the welfare of the child is the paramount consideration; (b) no compulsory intervention should be made unless it would be better for the child than no compulsory intervention at all; and that (c) children should be given the opportunity to express a view and, if they do so, consideration should be given to the child’s views.

A warning letter is a more appropriate response to section 87 offences by children. The content of the warning letter will depend on any information, education or awareness raising programme which is in operation. However, an example of a warning letter is included in appendix 8 for guidance.

**Smoking Related Litter**

Smoking related litter is the most common type of litter found across Scotland for various reasons:

- many people do not consider dropping cigarette butts as littering
- there is a fear of causing bin fires
- there is a misconception that cigarette butts will biodegrade.
Following the introduction of the ban on smoking in enclosed public spaces by the Smoking, Health and Social Care (Scotland) Act 2005, facilities for the disposal of cigarette litter have greatly increased. This has been achieved by local authorities adding smoking litter facilities to existing litter bins, many businesses providing smoking related litter bins at the entrance to their premises and personal ashtrays becoming widely available. See Part III for good practice examples in dealing with this issue.

Section 87 and 88 of the Act are the recommended enforcement options to deal with smoking related litter. See details for the use of these powers under the general littering section.

**Gum**

As detailed in Part I, the act of throwing down, dropping or depositing and leaving gum is an offence under Section 87 of the Act. Therefore Section 87 and 88 are the recommended enforcement options to deal with chewing gum litter. See details for the use of these powers under the general littering section.

**Fast Food Litter**

Fast food in this context is defined as, ‘any edible product, other than confectionery, which can be eaten immediately upon exiting the premises in which it was bought and any associated packaging.’

Although businesses do not drop fast food litter themselves, they provide the food and packaging materials which can be dropped by their customers. Therefore, businesses causing a problem with fast food litter from their premises can be encouraged and, if necessary, required to assist with litter control measures. Part III of the Code of Practice details examples of voluntary partnership arrangements to reduce fast food litter. Should voluntary partnership arrangements be ineffective, the following enforcement option should be used.

**Section 93 and 94 – Street Litter Control Notices**

A principal litter authority may, with a view to the prevention of accumulations of litter or refuse in and around any street or open land adjacent to any street, issue notices, ‘street litter control notices’, imposing requirements on occupiers of premises in relation to such litter or refuse. If the litter authority is satisfied, in respect of any premises which are of a description prescribed under section 94 and have a frontage on a street in their area, that:

- there is recurrent defacement by litter or refuse of any land, being part of the street or open land adjacent to the street, which is in the vicinity of the premises
the condition of any part of the premises which is open land in the vicinity of the frontage is, and if no notice is served is likely to continue to be, detrimental to the amenities of the locality by reason of the presence of litter or refuse

there is produced, as a result of the activities carried out on the premises, quantities of litter or refuse of such nature and in such amounts as are likely to cause the defacement of any part of the street, which is in the vicinity of the premises,

the litter authority may serve a street litter control notice on the occupier or, if the premises are unoccupied, on the owner of the premises.

Notices must specify appropriate and reasonable requirements in relation to the area of open land which adjoins the vicinity of the frontage of the premises on the street – the ‘specified area’. Notices can include clearing litter and the provision or emptying of litter bins. The owner cannot be required to clear litter or refuse from any carriageway unless it is closed to all vehicular traffic.

A person on whom a notice is served may appeal against the notice to the Sheriff by way of summary application, within 21 days of the notice being served. If it appears to the litter authority that a person has failed or is failing to comply with any requirement imposed by a notice, the authority may apply to the Sheriff by way of summary application for an order requiring the person to comply with the requirement within such time as may be specified in the order. If a person fails to comply with an order, without reasonable excuse, they shall be guilty of an offence and liable to summary conviction to a fine not exceeding level 4 on the standard scale – which is currently £2,500 as at 2006.

Types of land on which a street litter control notice may be served include:

- up to 10 metres from an automated teller machine
- up to 100 metres away from various premises as described in The Street Litter Control Notices Order 1991, amended 1997. These include betting offices and shops, premises where lottery tickets are sold, premises where goods are displayed adjacent to or in front of the premises, fast food premises.

Templates for an ‘intention to serve notice’ and a Street Litter Control Notice are attached in appendix 9.
It should be noted that under section 95 of the Act, it is the duty of each principal litter authority to maintain a register containing copies of any Street Litter Control Notices issued, added or varied. Details are required to be kept in the register for so long as the order or notice is in force.

The register is to be made available to the public for inspection free of charge at all reasonable times, and facilities should be made available for the public to make copies of the documents on payment of a reasonable charge.

The offence of dropping fast food litter should be dealt with as detailed in the general litter section using sections 87 and 88 of the Environmental Protection Act 1990. Refer to the general litter section for full details.

**Overflowing / Inadequately Disposed of Commercial Waste**

Commercial waste is waste from a trade or business, sport, recreation or entertainment facility, offices or showrooms, or premises of clubs or associations.

Inadequately disposed of and badly presented commercial waste is a significant contributor to the litter problem on Scotland's streets. Scotland wide 7% of streets have been recorded as being affected by this type of litter, however in certain central Scotland town centres, this figure rises as high as 35%.

The available enforcement options for dealing with overflowing or inadequately disposed of commercial waste include the following:

**Section 33 - Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste (as amended)**

This section forms the foundation of the waste licensing system by prohibiting the deposit, treatment, keeping or disposal of controlled waste in or on land. It is an offence not only to carry out such activities, but also to 'knowingly cause or knowingly permit' them.

This section applies to household, industrial and commercial waste.
Where controlled waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

A person who commits an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding £40,000 or both.

Defences include:

- took all reasonable precautions and all due diligence
- done in an emergency in order to avoid danger to the public.

Section 33A, inserted by section 55 of the Antisocial Behaviour etc. (Scotland) Act 2004 provides for the issue of Fixed Penalty Notices for offences under section 33. Powers are given to authorised local authority officers, officers of a waste regulation authority and police officers where they believe that a person has committed a relevant offence to issue a notice in respect of the offence. A notice under this section is a notice offering the opportunity, by paying a fixed penalty, of discharging any liability to conviction for the offence to which it relates.

A fixed penalty payable in pursuance of a notice under this section shall be payable to the local authority in whose area the offence was committed and will be retained by the local authority.

**Section 34 - Duty of care etc. as respects waste**

It shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances:

- To prevent any contravention by any other person of section 33
- To prevent the escape of the waste from his control or that of any other person
- On the transfer of waste, to secure that the transfer is only to an authorised person or to a person for authorised transport purposes and that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section and to comply with the duty as respects the escape of waste.

The duty of care does not otherwise apply to the occupier of domestic property as respects the household waste produced on that property.
However, the occupier of the domestic property as respects the household waste produced on the property, must take reasonable steps to secure that any transfer of waste is only to an authorised person or to a person for authorised transport purposes.

Additionally, the duty of care applies to waste from a workshop on that property, waste brought from other property and building waste from work undertaken on that property by a contractor.

Practical guidance for everyone who is under the duty is included in, *Waste Management, The Duty of Care, A Code of Practice*. This code of practice is admissible in evidence and if any provision appears to the court to be relevant to any questions arising in the proceedings it shall be taken into account in determining that question.

**Section 47 - Receptacles for commercial or industrial waste**

A waste collection authority may, at the request of any person, supply him with receptacles for commercial or industrial waste which he has requested the authority to arrange to collect and shall make a reasonable charge for any receptacle supplied unless in the case of a receptacle for commercial waste the authority considers it appropriate not to make a charge.

If it appears to a waste collection authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified. The size and number required must be reasonable.

The waste collection authority may make provisions with respect to:

- size, construction and maintenance of receptacles,
- the placing of receptacles
- the substances or articles which may or may not be put into the receptacles.

A person who fails, without reasonable excuse, to comply with any requirements imposed under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale — which is currently £1,000 as at 2006. The occupier of the premises has 21 days to appeal against the requirements of a notice served on him.
Advertising Materials
Leafleting, both the handing of materials to pedestrians and the placing of materials on vehicle windscreens, contributes significantly to litter in many town centres.
In the case of pedestrians subsequently dropping the leaflets in the street sections 87 and 88 apply as with any other litter. However, if the leaflet distributor places the leaflets on vehicle windscreens, or other public place, then sections 87 and 88 apply to them directly.

Shopping Trolleys
Abandoned shopping trolleys are an issue in many town centre areas. These pose a serious management issue particularly within town centre car parks.
Section 99 and Schedule 4 of the Act provides local authorities with a method of dealing with abandoned trolleys in their area.

A local authority may, after consultation with those persons who may be affected by the resolution, pass a resolution to apply Schedule 4 to the area. A notice must be published in at least one newspaper circulating in the local authority area to the effect that the resolution has been passed. When the resolution has been made, the schedule then applies to any trolley, on any land, which appears to an authorised officer to have been abandoned.
Trolleys abandoned on public land may be seized and removed to a local authority facility for storage. Within 14 days of seizing a trolley, the local authority must serve on the owner of the trolley a notice stating that the trolley has been removed and is being stored by the local authority, where it is being stored and that, if it is not claimed, the local authority will dispose of it.
The local authority must then keep the trolley for a period of six weeks and may thereafter sell or dispose of the trolley.
If, within the six week period, the trolley is claimed, the local authority must return it to its owner and may make a charge for this. The level of the charge must cover the local authority’s costs for providing this service including uplift, storage and delivery.
It shall be the duty of a local authority from time to time to consult about the operation of Schedule 4 with the persons who appear to be affected by its operation.
Residential areas

Residential areas tend to be split into two main categories: high density areas, such as terraced, tenemental and flatted housing; and low density areas such as detached and semi-detached housing. Over the last few years, cleanliness monitoring has shown that high density residential areas tend to have the highest level of litter problems due to increased population and footfall levels. Over 80% of sites surveyed have been found to contain pedestrian dropped litter, with smoking related litter being the main type of litter, found in 80% of sites surveyed in high density housing areas and 69% of sites surveyed in low density housing areas. This is followed by high levels of confectionery related litter and drinks related litter. Domestic waste spillages are found more commonly in residential areas, as are higher levels of dog fouling.

Detailed below is a list of options for dealing with different types of litter or refuse problems commonly found in residential areas:

- general littering
- overflowing / inadequately disposed domestic waste
- dog fouling

General Littering

Section 87 and 88 of the Environmental Protection Act 1990 are the available enforcement options to deal with this issue. See details for the use of these powers under the general littering section in the town centre areas section.

Overflowing / Inadequately Disposed Domestic Waste

Recent research shows that whilst 24% of fly tipping incidents can be attributed to shops, offices and builders, some 73% of incidents are directly attributable to households (remaining 3% not easily attributed). However, all householders now have a responsibility, under Duty of Care, to ensure their waste is passed to authorised carriers. Registered waste carriers, other than local authorities, can now be found online by visiting the waste carrier register at www.sepa.org.uk.
The Waste (Scotland) Regulations 2005 introduced the ‘Householder Duty of Care’. Regulation 3(3) replaces section 34(2) (duty of care etc. as respects waste) of the 1990 Act such that an occupier of domestic property shall take reasonable steps to ensure that any household waste produced on the property is transferred to an authorised person, but shall not otherwise be subject to the duty of care imposed by section 34(1) of that Act. Powers to address waste overflowing, dumped and/or badly stored in back courts are available to local authorities. Please refer to Part III of the Code of Practice for further information.

Section 46 - Receptacles for household waste
Where a waste collection authority has a duty to arrange for the collection of household waste, the authority may require the occupier to place the waste for collection in receptacles of a kind and number specified.

The type and number of the receptacles required to be used shall be such only as are reasonable but separate receptacles or compartments of receptacles may be required to be used for waste which is to be recycled and waste which is not.

In making these requirements, the authority may make provision with respect to –

- Size, construction and maintenance of the receptacles
- The placing of the receptacles
- The substances or articles which may or may not be put into the receptacles and precautions to be taken where particular substances or articles are put into them.

Occupiers have a 21 day right of appeal against any requirements imposed on them. A person who fails, without reasonable excuse, to comply with any requirements imposed by this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale – which is currently £1,000 as at 2006.

Dog Fouling
Although dog fouling removal by duty bodies to comply with cleanliness standards is covered by the Act, enforcement options for those who fail to clean up after their dog fouling is not. Please refer to The Dog Fouling (Scotland) Act 2003 for details of enforcement options.
Industrial Areas

Both traditional industrial estates and modern technology parks are affected, in common with most other land types, by litter and badly stored or presented waste, and by flytipping. In many cases these areas are in private ownership and duty bodies, as defined in the Act, have limited responsibility for cleansing. However, this does not preclude enforcement action being taken in support of a landowner’s obligation to maintain his area.

General Littering

Section 87 and 88 of the Environmental Protection Act 1990 are the available enforcement options to deal with this issue. See details for the use of these powers under the general littering section in the town centre areas section.

Industrial Waste

Section 75 of the 1990 Act, as amended by the Waste (Scotland) Regulations 2005, provides a definition of industrial waste.

‘...industrial waste means waste from any of the following premises –
(a) any factory (within the meaning of the Factories Act 1961);
(b) any premises used for the purposes of, or in connection with, the provision to the public of transport services by land, water or air;
(c) any premises used for the purposes of, or in connection with, the supply to the public of gas, water or electricity or the provision of sewerage services;
(d) any premises used for the purposes of, or in connection with, the provision to the public of postal or telecommunications services; or
(e) any mine or quarry.’

Industrial waste can be dealt with similarly to commercial waste: Section 33 - Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste; Section 34 - Duty of care etc. as respects waste; Section 47 - Receptacles for commercial or industrial waste. Please refer to the town centre areas section for additional information.

Litter Control Areas

Section 90 makes provision for a local authority to designate a Litter Control Area where it considers that, without such designation, the presence of litter or refuse means land is, and will continue to be, in a condition which is likely to be detrimental to the amenity of the area. The
types of land which can be designated are defined by the Litter Control Areas Order 1991 (amended 1997) and include public car parks, shopping centres, business parks, industrial estates, cinemas, theatres, sports facilities, beaches, promenades, aerodromes, marinas, public open space under the control of certain public bodies, land used for markets, motorway service stations, roadside picnic areas, camping and caravan sites.

Litter Control Areas are, therefore, generally areas that are accessible to the public but privately rather than publicly owned. Those who may be affected by the proposed designation must be given 21 days to make representations and these must be taken into account in deciding on the designation (section 90(6)). If the designation is made, the land becomes relevant land and the occupier is then required to clear the land and keep it free of litter in accordance with section 89 of the Act.

Information regarding this process, and a sample notice, is available in Part I of the Code of Practice.

**Litter Abatement Notices**

Where a local authority as Principal Litter Authority is satisfied that relevant land (excluding roads) has been defaced by litter or that this is likely to recur, it may issue a Litter Abatement Notice, under section 92, to the duty body.

The notice will specify the time within which the litter must be cleared and/or prohibit further littering. If the duty body does not comply with the notice, an offence is committed which, on conviction, may result in a fine plus an additional fine for each day on which the offence continues. The notice will be served on the occupier of the land or, if there is no occupier, on the owner.
Environmental Protection Act 1990
Section 92(1)

The ................. (name of principal litter authority issuing notice), being satisfied as respects the relevant land described in paragraph 2-

(i) that it is defaced by litter or refuse, or
(ii) that its defacement by litter or refuse is likely to recur.
(delete (i) or (ii) if inapplicable), hereby serves the following Notice:

1. This Notice is served on the following Crown authority/designated statutory undertaker/governing body of a designated educational institution (delete as appropriate), as the responsible body having a duty under section 89(1) of the Environmental Protection Act 1990 to keep its relevant land, so far as is practicable, clear of litter or refuse:

Name of responsible body: .........................

Address: ...........................................

and,

i. Requires that the litter or refuse is cleared within ....... (specify time period for compliance, e.g. 7 days) from the date on which this notice is served.

and/or,

ii. Prohibits the responsible body from permitting that land to become defaced by litter or refuse again.

(if appropriate, delete whichever of (i) or (ii) is not to apply)

2. The relevant land to which this notice applies is the land which -

i. is delineated and shown (describe colouring or other method used to identify the land on the map) on the map forming part of this Notice, and

ii. is briefly described in the Schedule to this Notice.

3. An appeal against this notice may be made to the sheriff within 21 days from the date on which it is served. The sheriff must allow the appeal if you can prove that the duty under section 89(1) has been complied with; the Code of Practice on Litter and Refuse (issued pursuant to section 89(7)) is admissible as evidence in respect of compliance with that duty.

4. If you fail without reasonable excuse to comply with the requirement and/or prohibition (delete as appropriate) in paragraph 1:

- you may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500), plus
further fines of one-twentieth of that sum (currently £125) a day for each day that the offence continues after conviction.

- the local authority is entitled, in respect of land other than Crown land occupied for naval, military or air force purposes, or certain land of designated statutory undertakers, to enter your land, clear the litter, and charge you for the costs incurred.

SCHEDULE

(Description of relevant land)

DATE
Out-of-Town Shopping Centres

With the growth in out-of-town shopping, litter and refuse issues, which were traditionally confined to town centre areas, have become more prevalent on the outskirts of towns and cities. As is the case with industrial areas many of these areas are in private ownership and duty bodies, as defined in the Act, have limited responsibility for cleansing. However, this does not preclude enforcement action being taken in support of a landowner’s obligation to maintain his area.

General Littering

Section 87 and 88 of the Environmental Protection Act 1990 are the available enforcement options to deal with this issue. See details for the use of these powers under the general littering section in the town centre areas section.

Commercial Waste

Overflowing / inadequately disposed of commercial waste may be an issue in this type of area. Legislation which applies includes: Section 33 - Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste; Section 34 - Duty of care etc. as respects waste; Section 47 - Receptacles for commercial or industrial waste. (All references are to the 1990 Act.) Please refer to the town centre areas section for additional information.

Litter Control Areas and Litter Abatement Notices

Please refer to the Industrial Areas section for further information.
Educational Institutions

There is often a litter problem in and around schools and colleges. School grounds are included within the Code of Practice for the purposes of cleansing. However, although they are relevant land as defined in the Act, the majority of schools are in local authority ownership, and the local authority cannot take formal action against itself to deal with litter within school grounds. Compliance with the Code of Practice is clearly a management issue for the school and schools must be aware of their duty under the Code of Practice. Please refer to the Town Centre Areas section for information about youth enforcement for dealing with young people around schools.

Further education colleges and universities are not normally in local authority ownership. Relevant land in this case is land of a designated educational institution that is open to the air and is under the control of a governing body. The governing body is therefore the duty body in terms of the Code of Practice and as such may be served with a Litter Abatement Notice by the local authority. The notice will specify the time within which the litter must be cleared and/or prohibit further littering. In addition, fixed penalty notice powers are available around colleges and universities (see appendices 6 and 7).

Section 91 of the Environmental Protection Act 1990 - Summary proceedings by persons aggrieved by litter - applies to schools, colleges and universities in the same way as it applies to all other duty bodies (see appendix 5).
Beaches

The duty on any body in relation to beaches extends only to land above Mean High Water Springs.

Due to the nature of their use and their location, beaches have specific issues in relation to litter and refuse.

- Within the bathing season amenity and recreation beaches will experience high daily visitor numbers whilst in the winter months types of user and usage changes. Other beaches, which in Scotland will be mainly rural or close to small settlements, may experience smaller visitor numbers overall but the pattern of usage is generally more consistent.

- Beaches experience the added problem of “marine litter” particularly during the winter months and periods of inclement weather. “Marine litter” is defined by the Marine Conservation Society (MCS) as, ‘all manufactured or processed items or materials that have been discarded, disposed of or abandoned, by intent or accident, in an aquatic environment.’

- Much of the waste discarded at sea inevitably is washed ashore. Coastal litter can be categorised according to material type (e.g. plastic, glass, sanitary, metal) and comes from four main sources, namely recreational and tourism related litter, fishing debris, sewage related matter and shipping and offshore waste. The MCS Beachwatch Survey 2005 recorded an annual increase in the amount of litter on beaches. On average one piece of litter was recorded for every 51cm of beach surveyed. The density of plastic bags found on Scottish beaches increased by 41% from the 2004 survey and cigarette stubs increased by 273%. Please refer to Part III of the Code of Practice for additional information.

As is the case for relevant land of any duty body, beaches may be subject to the provisions of Section 90 – Litter Control Areas and Section 92 - Litter Abatement Notices. Please refer to the Industrial Areas section for information on the use of these provisions.

Section 91 of the Environmental Protection Act 1990 - Summary proceedings by persons aggrieved by litter – also applies to beaches (see appendix 5).
Statutory Undertakers

‘Statutory undertaker’ means—

(a) any person authorised by any enactment to carry on any railway, light railway, tramway or road transport undertaking;
(b) any person authorised by any enactment to carry on any canal, inland navigation, dock, harbour or pier undertaking; or
(c) any relevant airport operator (within the meaning of Part V of the [1986 c. 31.] Airports Act 1986).

Detailed below is a list of options for dealing with different types of litter and waste problems commonly found in statutory undertakers areas:

- general littering
- dog fouling

General Littering
Section 87 and 88 of the Environmental Protection Act 1990 are the available enforcement options to deal with this issue. See details for the use of these powers under the general littering section in the town centre areas section.

Dog Fouling
Although dog fouling removal by duty bodies to comply with cleanliness standards is covered by the Act, enforcement options for those who fail to clean up after their dog fouling is not. Please refer to The Dog Fouling (Scotland) Act 2003 for details of enforcement options.

Litter Abatement Notices
Where a local authority as Principal Litter Authority is satisfied that relevant land (excluding roads) has been defaced by litter or that this is likely to recur, it may issue a Litter Abatement Notice, under section 92, to the duty body.

The notice will specify the time within which the litter must be cleared and/or prohibit further littering. If the duty body does not comply with the notice, and an offence is committed which, on conviction, may result in a fine plus an additional fine for each day on which the offence continues. The notice will be served on the occupier of the land or, if there is no occupier, on the owner.
Rural Areas

There are almost 1 million people currently living in rural Scotland, almost 20% of the population of Scotland. Rural communities are affected by similar litter and refuse issues as urban communities, albeit on a reduced scale. People living in rural areas are less likely to encounter anti-social behaviour than people in the rest of Scotland. Some 18% of people in accessible rural areas and 10% in remote rural areas report "rubbish or litter" problems compared with 32% in the rest of Scotland according to the Scottish Executive Annual Rural Report 2004.

Detailed below is a list of options for dealing with different types of litter and waste problems commonly found in rural areas:

- general littering
- dog fouling

General Littering

Section 87 and 88 of the Environmental Protection Act 1990 are the available enforcement options to deal with this issue. See details for the use of these powers under the general littering section in the town centre areas section.

Dog Fouling

Although dog fouling removal by duty bodies to comply with cleanliness standards is covered by the Act, enforcement options for those who fail to clean up after their dog fouling is not. Please refer to The Dog Fouling (Scotland) Act 2003 for details of enforcement options.
<table>
<thead>
<tr>
<th>Glossary</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annotated</td>
<td>Furnished with critical commentary or explanatory notes.</td>
</tr>
<tr>
<td>Attitude and Awareness Survey</td>
<td>A survey of key stakeholders’ (often local residents) understanding and opinion on a particular issue or set off issues.</td>
</tr>
</tbody>
</table>
| Bathing season                       | Defined in the Water Framework Directive as ‘the period during which large numbers of bathers can be expected.’
                                      | In Scotland the period is currently 1 June – 15 September.                                                                                   |
| Mean high water springs              | The average of high water heights occurring at the time of spring tides.                                                                    |
| Modern technology park               | Low density area with a high proportion of service industry providers.                                                                        |
| Stakeholder                          | Any party with an interest in an organisation or enterprise, e.g. employees, customers, suppliers or the local community. This is due to the effect that the organisation’s activities will have on them, although they are a "third party" in that they are outside the organisation. |
| Statutory nuisance                   | Defined by section 79 of the Environmental Protection Act 1990.                                                                              |
| Statutory Performance Indicator      | Information that must be published by councils about their performance specified by the Audit Commission under the Local Government Act 1992. The information enables comparisons to be made between the standards of performance achieved by different local authorities in the specified financial year; and the standards of performance achieved by such authorities in different financial years. |
| Traditional industrial estate        | Generally well established, high-density area with a relatively high proportion of manufacturing premises.                                       |
Appendix 1
Litter and the Law in Scotland

A Guide for the Public

What are the litter laws?
The Environmental Protection Act 1990 (EPA) makes ‘Duty Bodies’ responsible for keeping their land clear of litter and refuse. It also gives both local authorities and members of the public rights to take legal action to get areas cleaned up.

Who are Duty Bodies?
They are organisations with a legal responsibility for keeping specified public places clear of litter and refuse - often described as a ‘cleansing duty’. They are mainly local authorities and statutory undertakers such as Network Rail, and also schools, colleges and universities.

What is their responsibility?
Quite simply, to make sure that public land and roads under their control are kept free from litter and refuse, as far as is practicably possible and within reason. Full details of how they must comply with this cleansing duty are contained in the Code of Practice on Litter and Refuse which accompanies Part IV (section 89) of the EPA.

What does the cleansing duty involve?
Based on land use and time, the Code of Practice sets out reasonable and acceptable standards of cleanliness which Duty Bodies can be expected to meet. What matters is maintaining the cleanliness of an area, rather than how often it is cleaned.

What is litter?
The EPA does not provide a definition of litter or refuse, although the courts have considered the definition to be wide. Section 87 of the EPA, in defining the offence of leaving litter, states that litter is anything that is thrown down, dropped or deposited by any person and left that causes defacement, in a public place. This accords with the popular interpretation that, “Litter is waste in the wrong place.”

Litter includes mainly synthetic materials, often associated with smoking, eating and drinking, that are improperly discarded and left by members of the public, are spilt during waste management operations or have escaped from badly presented household, commercial or
industrial waste. Litter may also include material which will eventually decay such as food waste.

Litter Measurements
Keep Scotland Beautiful carries out surveys across the country measuring different sources and types of litter and refuse, including: smoking related litter, fast food packaging, dog fouling and business waste. The information is used to detect trends in litter deposits, to help local authorities to make efficient use of their resources, and to inform future litter policies and campaigns.

Cost of clearing up litter
The cost of clearing litter across Scottish local authorities currently stands at £65 million per year. This cost is absorbed into council tax charges paid by the public and does not include clearing litter in other land areas, such as motorways or school grounds.

How do I know if a place is clean enough?
Compliance with the Code of Practice is measured in two ways: (i) cleanliness grades which set out how clean an area should be, and (ii) cleanliness standards which indicate responsible times for cleaning up. The photographs below illustrate the cleanliness grades defined by the Code of Practice on Litter and Refuse.

Grade A - No litter or refuse
Grade B - Predominantly free of litter and refuse, apart from a few small items

Grade C - Widespread distribution of litter and refuse with minor accumulations

Grade D - Heavily littered with significant accumulations
All areas have to be ‘zoned’. Each zone has a timescale within which the Duty Body should return it to a litter-free standard. The following table can help you work out how quickly an area should be brought to a cleanliness grade A. For example, if a town centre area (zone 1) deteriorates to grade D it should be restored to a grade A within one hour.
<table>
<thead>
<tr>
<th>Category Zone</th>
<th>CLEANLINESS STANDARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 TOWN CENTRES ETC.</td>
<td>A: 6hrs, B: 3 Hrs, C: 1 Hr</td>
</tr>
<tr>
<td>2 HIGH DENSITY RESIDENTIAL ETC.</td>
<td>A: 12 Hrs, B: 6 Hrs, C: 3 Hrs</td>
</tr>
<tr>
<td>3 LOW DENSITY RESIDENTIAL ETC.</td>
<td>A: 2 weeks, B: 12 Hrs, C: 6 Hrs</td>
</tr>
<tr>
<td>4 AREAS NOT FALLING INTO ZONES 1-3</td>
<td>A: 2 weeks, B: 1 week, C: 60 Hrs</td>
</tr>
<tr>
<td>5a BEACHES (Amenity Beaches)</td>
<td>1st June to 15th September: 48 Hrs; 16th September to 31st May: 4 weeks</td>
</tr>
<tr>
<td>5b BEACHES (Recreation Beaches)</td>
<td>1st June to 15th September: 1 week; 16th September to 31st May: 4 weeks</td>
</tr>
<tr>
<td>5c BEACHES (Sensitive Conservation Areas)</td>
<td>Monthly hand picking of litter</td>
</tr>
<tr>
<td>5d BEACHES (Other Beaches)</td>
<td>AS NECESSARY</td>
</tr>
<tr>
<td>6a MOTORWAYS &amp; STRATEGIC ROUTES (Hard Surface areas)</td>
<td>A: 4 weeks, B: 1 week</td>
</tr>
<tr>
<td>6b MOTORWAYS &amp; STRATEGIC ROUTES (Grassed areas)</td>
<td>A: 4 weeks, B: 1 week</td>
</tr>
<tr>
<td>7a LOCAL ROADS (Hard Surface Areas)</td>
<td>A: 2 weeks, B: 5 days</td>
</tr>
<tr>
<td>7b LOCAL ROADS (Grassed Areas)</td>
<td>A: 2 weeks, B: 5 days</td>
</tr>
<tr>
<td>8a EDUCATIONAL INSTITUTIONS (Hard Surface Areas) (Term Time)</td>
<td>A: 24 Hrs</td>
</tr>
<tr>
<td>8b EDUCATIONAL INSTITUTIONS (Grassed Areas) (Term Time)</td>
<td>A: 24 Hrs</td>
</tr>
<tr>
<td>8c EDUCATIONAL INSTITUTIONS (With community facilities) (Hard Surface Areas)</td>
<td>A: 24 Hrs</td>
</tr>
<tr>
<td>8d</td>
<td>EDUCATIONAL INSTITUTIONS (With community facilities) (Grassed Areas)</td>
</tr>
<tr>
<td>----</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>9a</td>
<td>OPERATIONAL RAILWAY LAND Within 100M of Platform Ends</td>
</tr>
<tr>
<td>9b</td>
<td>OPERATIONAL RAILWAY LAND Within Urban Areas Other than in 9a</td>
</tr>
<tr>
<td>9c</td>
<td>OPERATIONAL RAILWAY LAND All other areas</td>
</tr>
<tr>
<td>10a</td>
<td>CANAL TOWPATHS (Paved Areas)</td>
</tr>
<tr>
<td>10b</td>
<td>CANAL TOWPATHS (Grassed or Non-Paved Areas)</td>
</tr>
<tr>
<td>11</td>
<td>PUBLIC LAND ATTRACTING LARGE NUMBERS OF PEOPLE</td>
</tr>
</tbody>
</table>

**What can a person do if things go wrong?**

The EPA gives a member of the public the right to take legal action to have litter removed where an area falls below the standard for longer than is allowed.

Before exercising that right it is essential that the Duty Body is given a chance to clean up. Make a formal complaint by telephone or in writing, being specific about location, type and amount of litter. Some local authorities have litter ‘hotlines’ and respond quickly to complaints. If your council does not have a special number to ring, litter complaints are usually dealt with by Cleansing, Environmental Health or Technical Services departments.

If an area falls below the standard and the Duty Body does not put matters right, a member of the public can take legal action to get a Litter Abatement Order. The Order means that the Duty Body must clean up the area. Action is taken through the Sheriff Court and there is a charge to apply for the Order.
For details on how to do this, visit www.littercode.org. As with any legal action, the process may be time-consuming and complicated, but has been successfully used.

What can local authorities do?
As well as giving rights to the member of the public, the EPA gives powers to local authorities to take action against individuals and businesses that create litter, and powers to have areas cleaned up. Leaving or depositing litter is a criminal offence, subject to a maximum fine of £2,500. Either the police or a local authority can prosecute litterers. In addition, Fixed Penalty Notices of £50 can be issued for littering by local authority staff or the police.

Litter Free Areas
Where a litter problem can be clearly traced to certain types of business, such as takeaway food premises, the local authority can issue a Street Litter Control Notice. This makes the owner responsible for keeping the front of the premises, plus a reasonable distance either side, clear of litter. If certain kinds of private land to which the public have access, such as supermarket car parks, are badly littered the local authority can declare a Litter Control Area. The owner or occupier of the land is then under a duty to clear the land and keep it free of litter.

Those with a duty under the EPA to keep land free of litter can be served with a Litter Abatement Notice by the local authority. Once served with a Notice, the owner or occupier must clean up the area within a given period of time. If the Notice is not complied with there can be a fine, plus a daily fine if the offence continues.

Getting Scotland Up To Standard
Legislation alone will not achieve a clean Scotland. We all have a responsibility to keep our local environment clean and tidy. For further information on how you can get involved in improving your local environment contact Keep Scotland Beautiful or visit www.keepscotlandtidy.org.

Disclaimer
This document can only serve as a guide to, and synopsis of, the law relating to litter. It does not constitute legal advice. It may be misleading if relied upon as a complete explanation of the legal issues involved. If any matter is to be acted upon, the full texts of Part IV of the Environmental Protection Act 1990 as amended and the relevant statutory instruments must be consulted. For further details please visit www.opsi.gov.uk/legislation.
Appendix 2

Powers to Tackle Litter and Refuse on Non-relevant and Private Land

This appendix summarises the main legislative provisions governing land not covered by the litter duty in section 89 of the Environmental Protection Act 1990. This appendix can only serve as a guide to, and synopsis of, the law relating to litter. It does not constitute legal advice. It may be misleading if relied upon as a complete explanation of the legal issues involved. If any matter is to be acted upon, the full legal texts and the relevant statutory instruments must be consulted. For further details please visit www.opsi.gov.uk/legislation. Examples detailing the use of these additional powers will be available on Part III of the Code of Practice which can be viewed at www.littercode.org

Section 90 of the Environmental Protection Act 1990 enables local authorities to designate land of a prescribed description as a Litter Control Area if they consider that the presence of litter or refuse on that land is detrimental to the amenities of the area and is likely to remain so. This places a duty on each occupier of that land to ensure that the land he occupies is kept clear of litter and refuse, so far as is practicable. Failure to discharge the duty may result in a summary application being made to the Sheriff by an aggrieved citizen or the local authority as detailed below.

Section 91 of the Environmental Protection Act 1990 gives citizens aggrieved by the defacement by litter or refuse of relevant land the power to make a summary application to the Sheriff. Before instituting proceedings under this section, the complainant shall give to the person not less than 5 days written notice of his intention to make the complaint and the notice shall specify the matter complained of. If the Sheriff is satisfied that the land in question is defaced by litter or refuse the court may make a litter abatement order requiring the person against whom the proceedings are taken to clear the litter or refuse.

Section 92 of the Environmental Protection Act 1990 gives local authorities the power to serve a litter abatement notice if they are satisfied that the relevant land of a duty body is defaced by litter or refuse or that defacement by litter or refuse is likely to recur. The notice can specify a requirement that the litter or refuse be cleared within a time specified in the notice and / or a prohibition on permitting the land to become defaced by litter or refuse. The person served with the notice may appeal to the sheriff by way of summary application within a period of 21 days. If a person on whom a litter abatement notice is served, without reasonable excuse,
fails to comply with or contravenes the requirement or prohibition imposed by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500 as at 2006) together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.

If a person on whom a litter abatement notice is served fails to comply with the requirements imposed by the notice, the authority may:

- Enter on the land and clear the litter or refuse,
- Recover from that person the expenditure attributable to their having done so.

This point does not apply in relation to Crown land or relevant land of statutory undertakers.

**Section 59 of the Environmental Protection Act 1990** - If any controlled waste is deposited in or on any land in the area of a waste regulation authority or waste collection authority the authority may, by notice served on him, require the occupier to do either or both of the following:

- To remove the waste from the land within a specific period not less than a period of twenty-one days beginning with the service of the notice,
- To take within such a period specific steps with a view to eliminating or reducing the consequences of the deposit of the waste.

The occupier has an appeal period of 21 days, by way of summary application to the sheriff court. The court may quash the requirements if it is satisfied that:

- The appellant neither deposited or knowingly caused or knowingly permitted the deposit of the waste,
- There is a material defect in the notice.

If a person on whom a requirement has been imposed fails, without reasonable excuse, to comply with the requirement he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale (£5,000 as at 2006) and to a further fine of an amount equal to one-tenth of level 5 on the standard scale for each day on which the failure continues after conviction of the offence.

Where a person on whom a requirement has been imposed fails to comply with the requirement, the authority may do what that person was required to do and may recover from him any expenses reasonably incurred by the authority in doing it.
Section 4 of the Prevention of Damage by Pests Act 1949 gives local authorities the power to serve a notice on the owner and/or occupier of any land to remove accumulations of waste where damage by pests is likely to occur. The notice can require the owner and/or occupier to take, within such reasonable period as specified in the notice, reasonable steps such as removing litter. Costs can be recovered should a council have to remove it.

Section 6 of the Refuse Disposal (Amenity) Act 1978 gives local authorities the power to remove from land open to the air any ‘thing’ other than a motor vehicle which has been abandoned without lawful authority. If the land is occupied, the council must give notice of their intention to remove. Costs can be recovered from the person leaving the refuse or a person knowingly permitting it.

Section 179 of the Town and Country Planning (Scotland) Act 1997 enables a local planning authority to require the owner and occupier of land to take specific steps to remedy the condition of the land, if they consider that the lands present condition adversely affects the amenities of the area.

Part III of the Environmental Protection Act 1990 enables local authorities to take action if an accumulation or deposit is considered to be prejudicial to health or a nuisance.

Section 92 of the Civic Government (Scotland) Act 1982 creates an offence of leaving litter in areas such as common back courts and common passageways.

Section 95 of the Civic Government (Scotland) Act 1982 enables local authorities to require the owner of an open space in a populous space and set apart for use by the owners or occupiers of two or more separate properties, such as back court areas, to maintain the open space and any boundary walls or fences so as to prevent danger or nuisance to the public. The owner of the open space shall be entitled to recover an equal portion of the expense from each person entitled to use the open space for any work carried out in complying with the notice.
Appendix 3

Cleanliness Monitoring Systems

Detailed below are various monitoring systems used to monitor the quality of local environments.

Local Environmental Audit and Management System (LEAMS)

The LEAMS process is structured so that all authorities carry out exactly the same monitoring programme to enable full comparison between the results obtained.

The first part of the process is training. Each local authority in the LEAMS process is fully briefed on the LEAMS process, the relevant legislation about street cleansing and litter, the survey methodology, and how to use the data obtained during the survey.

Following the training, each local authority carries out bi-monthly surveys within their area. These surveys cover a random minimum sample of 2% of the streets and other relevant sites within their area. The following criteria is assessed during each of the surveys:

- Cleanliness grade
- Litter Bins (Count of Bins and Count of Overflowing Bins)
- Types of litter
- Sources of litter
- Adverse Environmental Quality Indicators, such as dog fouling, graffiti or weed growth
- Any other comments that may be useful for the site.

A data summary sheet is completed following each of the surveys to keep a record of the survey findings.

Every six months each local authority carries out a minimum 2% sample survey within another local authority area. This process allows for independent audits to be carried out and allows an exchange of information and best practice to take place.
An annual validation survey is carried out by Keep Scotland Beautiful, also assessing a minimum 2% sample survey within each of the local authority areas. This provides the external, independent evaluation recommended under Best Value.

**Cleanliness Index Monitoring System (CIMS)**

The Cleanliness Index Monitoring System (CIMS) is a more intensive version of LEAMS which involves looking at a minimum of 10% of the sites in each land use category and geographical area to provide a fully representative sample.

CIMS offers an external street cleansing validation service that applies standard monitoring techniques, allowing comparisons to be made between local authorities. The CIMS package includes training in parts II and IV of the Environmental Protection Act 1990 for both client and contractor staff and the use of the monitoring methodology.

Validation surveys are conducted at least once a year and are undertaken by Keep Scotland Beautiful trained officers. Each survey produces practical information to encourage cooperation between different sectors and departments of an authority.

**Detailed Independent Surveys**

Based on the CIMS monitoring methodology, more detailed surveys of local authority or specific problem areas can be conducted to give more in-depth data into local problems. For example, detailed surveys of ward areas or industrial estate land.
Appendix 4

Public Attitudes to the Environment in Scotland 2002

The Survey of Public Attitudes to the Environment in Scotland was commissioned by the Scottish Executive, in conjunction with Scottish Natural Heritage and the Forestry Commission to provide information on public views on a wide range of environmental issues. A representative sample of 4,119 people throughout Scotland was surveyed between February and June 2002.

The following information shows the views in relation to litter and dog fouling:

The survey found that nine in ten people (89%) thought that litter was quite a big or a very big problem in Scotland and only 2% thought that it was not a problem at all. Seven in ten people felt that litter had become more of a problem in Scotland over the last five years (69%). Similarly, eight in ten people (79%) thought that dog fouling was either quite or a very big problem in Scotland and just 4% thought that it was not a problem at all. In addition, half of all people asked felt that dog fouling had become more of a problem than five years ago, although 14% thought the problem had lessened.

Concern for both issues was strongly age related. Two thirds of people aged over 65 felt that litter was a problem and nearly eight in ten people in the same age group said they felt it had got noticeably worse over the last five years. Very similar proportions of people aged between 45 and 64 thought the same. In contrast, far fewer people aged between 16 and 24 years perceived litter to be a very serious problem. Those in this group were also less likely to say that they had noticed it getting worse over the last five years.

Although there was no significant difference in opinion over the size of the litter problem between owner occupiers and renters, those living in accessible small towns or one of the large urban areas were more likely to think litter was a very big problem, compared with those from remote rural areas or towns (over 6 in 10, and 4 in 10 people respectively).

As Figure 2.4 shows, people who lived in social rented accommodation were more concerned about dog fouling than owner occupiers. Just under five in ten owner occupiers (49%) felt that this problem had got worse over the last five years, but six in ten social renters (60%) thought the same. A third (34%) of people from remote rural areas said dog fouling was a very big
problem compared with over half of those from the large urban areas (49%). People from remote rural areas were also less likely to think that dog fouling had become more of a problem during the last five years (40%) than those from the large urban areas (48%).

A final point to note is that only a third of dog owners felt that dog fouling was a very big problem in Scotland compared with over half of those people who did not own dogs. While 51% of non-dog owners thought dog fouling had got worse over the last five years only 45% of dog owners took this view. [Tables 2.23 to 2.26]

Table 2.23 The size of the litter problem in Scotland by socio-demographic characteristics

<table>
<thead>
<tr>
<th></th>
<th>Very big problem</th>
<th>Quite a big problem</th>
<th>A small problem</th>
<th>Not a problem at all</th>
<th>Don’t know</th>
<th>Sample size</th>
</tr>
</thead>
<tbody>
<tr>
<td>All respondents</td>
<td>%</td>
<td>57</td>
<td>32</td>
<td>8</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Men</td>
<td>%</td>
<td>57</td>
<td>31</td>
<td>10</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Women</td>
<td>%</td>
<td>57</td>
<td>34</td>
<td>6</td>
<td>2</td>
<td>1</td>
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<tr>
<td>Aged 16–24</td>
<td>%</td>
<td>46</td>
<td>45</td>
<td>5</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Aged 25–44</td>
<td>%</td>
<td>49</td>
<td>38</td>
<td>12</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Aged 45–64</td>
<td>%</td>
<td>66</td>
<td>26</td>
<td>6</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Aged 65+</td>
<td>%</td>
<td>67</td>
<td>22</td>
<td>7</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Owner occupiers</td>
<td>%</td>
<td>57</td>
<td>34</td>
<td>7</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Private renters</td>
<td>%</td>
<td>44</td>
<td>40</td>
<td>12</td>
<td>5</td>
<td>1</td>
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<tr>
<td>Social renters</td>
<td>%</td>
<td>61</td>
<td>27</td>
<td>8</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Large urban areas</td>
<td>%</td>
<td>61</td>
<td>27</td>
<td>8</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Other urban</td>
<td>%</td>
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<td>35</td>
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<tr>
<td>Accessible small towns</td>
<td>%</td>
<td>65</td>
<td>30</td>
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<td>Remote small towns</td>
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<td>44</td>
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<td>Remote rural areas</td>
<td>%</td>
<td>44</td>
<td>43</td>
<td>9</td>
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Table 2.24 Perceptions of change in litter problem in last five years by sociodemographic characteristics

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<th>No change</th>
<th>Less of a problem</th>
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<th>Sample size</th>
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<td>%</td>
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<td>Men</td>
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<tr>
<td>%</td>
<td>69</td>
<td>23</td>
<td>5</td>
<td>3</td>
<td></td>
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<td>Women</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>%</td>
<td>70</td>
<td>23</td>
<td>5</td>
<td>3</td>
<td></td>
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<tr>
<td>%</td>
<td>64</td>
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<td>4</td>
<td>5</td>
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<td>Aged 25 – 44</td>
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<td></td>
<td></td>
<td>724</td>
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<tr>
<td>%</td>
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<td>29</td>
<td>7</td>
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<td>%</td>
<td>76</td>
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<td>Social renters</td>
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<tr>
<td>%</td>
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<td>Large urban areas</td>
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<tr>
<td>%</td>
<td>67</td>
<td>24</td>
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<td>%</td>
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<tr>
<td>%</td>
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<td>4</td>
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<tr>
<td>%</td>
<td>71</td>
<td>22</td>
<td>6</td>
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<tr>
<td>Remote rural areas</td>
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<td>180</td>
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<tr>
<td>%</td>
<td>59</td>
<td>29</td>
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<td>9</td>
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</table>
Table 2.25 The size of the dog fouling problem in Scotland by socio-demographic characteristics

<table>
<thead>
<tr>
<th></th>
<th>Very big problem</th>
<th>Quite a big problem</th>
<th>A small problem</th>
<th>Not a problem at all</th>
<th>Don’t know</th>
<th>Sample size</th>
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<td>16</td>
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<td>Men</td>
<td>45</td>
<td>30</td>
<td>20</td>
<td>5</td>
<td>2</td>
<td>899</td>
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<tr>
<td>Women</td>
<td>52</td>
<td>31</td>
<td>12</td>
<td>4</td>
<td>1</td>
<td>1,231</td>
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<tr>
<td>Aged 16 – 24</td>
<td>31</td>
<td>35</td>
<td>26</td>
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<td>177</td>
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<td>642</td>
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<td>Owner occupiers</td>
<td>48</td>
<td>32</td>
<td>15</td>
<td>4</td>
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<td>1,322</td>
</tr>
<tr>
<td>Private renters</td>
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<td>35</td>
<td>30</td>
<td>6</td>
<td>1</td>
<td>146</td>
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<tr>
<td>Social renters</td>
<td>57</td>
<td>25</td>
<td>13</td>
<td>4</td>
<td>1</td>
<td>625</td>
</tr>
<tr>
<td>Large urban areas</td>
<td>49</td>
<td>26</td>
<td>18</td>
<td>5</td>
<td>2</td>
<td>727</td>
</tr>
<tr>
<td>Other urban</td>
<td>49</td>
<td>32</td>
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<td>Accessible small towns</td>
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<td>29</td>
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<td>-</td>
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<td>Remote small towns</td>
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<td>145</td>
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<td>Accessible rural areas</td>
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<td>32</td>
<td>13</td>
<td>4</td>
<td>1</td>
<td>387</td>
</tr>
<tr>
<td>Remote rural areas</td>
<td>34</td>
<td>42</td>
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<tr>
<td>Dog owners</td>
<td>37</td>
<td>37</td>
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<td>6</td>
<td>1</td>
<td>449</td>
</tr>
<tr>
<td>Non-dog owners</td>
<td>52</td>
<td>28</td>
<td>15</td>
<td>4</td>
<td>1</td>
<td>1,675</td>
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</table>
Table 2.26 Whether dog fouling has got worse in last five years by sociodemographic characteristics

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<tr>
<th></th>
<th>More of a problem</th>
<th>No change</th>
<th>Less of a problem</th>
<th>Don’t know</th>
<th>Sample size</th>
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<td>%</td>
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<td></td>
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<td>32</td>
<td>14</td>
<td>4</td>
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<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Men</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td>%</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>Women</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>1,231</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Aged 16 – 24</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>42</td>
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<td>7</td>
<td>177</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Aged 25 – 44</strong></td>
<td>%</td>
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<td>724</td>
</tr>
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<td></td>
<td>%</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>Aged 45 – 64</strong></td>
<td>%</td>
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<td></td>
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<td>29</td>
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</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Owner occupiers</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>49</td>
<td>33</td>
<td>16</td>
<td>3</td>
<td>1,322</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Private renters</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>29</td>
<td>38</td>
<td>17</td>
<td>16</td>
<td>146</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Social renters</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>60</td>
<td>28</td>
<td>8</td>
<td>4</td>
<td>625</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Large urban areas</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>48</td>
<td>33</td>
<td>15</td>
<td>5</td>
<td>727</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other urban</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>50</td>
<td>31</td>
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</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Accessible small towns</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>54</td>
<td>31</td>
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<td>185</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Remote small towns</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>57</td>
<td>26</td>
<td>11</td>
<td>6</td>
<td>145</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Accessible rural areas</strong></td>
<td>%</td>
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<td></td>
<td></td>
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<td>31</td>
<td>12</td>
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</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Remote rural areas</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>40</td>
<td>41</td>
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<td>10</td>
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</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dog owners</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>45</td>
<td>36</td>
<td>14</td>
<td>5</td>
<td>449</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Non-dog owners</strong></td>
<td>%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>51</td>
<td>31</td>
<td>14</td>
<td>4</td>
<td>1,675</td>
</tr>
</tbody>
</table>
The survey also considered ways in which problems of litter and dog fouling might be addressed. Littering is an offence which can attract on-the-spot fines. Currently local authority officers have the power to issue notices asking for payment of such fines. On commencement of the Antisocial Behaviour etc (Scotland) Act 2004 police officers will also enjoy this power. Local authorities have a duty to ensure their areas stay free of litter, through means such as Street Litter Control Notices, as well as a duty of litter clearance. The 2004 Act, when commenced, will give the Scottish ministers power to direct local authorities (and others) in the performance of this duty. The Dog Fouling (Scotland) Act 2003 came into effect on 22 October 2003 and allows local authorities to issue fixed penalty notices to those who fail to clean up after their dog has fouled in a public place.

Over seven in ten people said that enforcing fines for people that drop litter was a good way of reducing litter (72%). A similar proportion said that educating children in school more about litter could reduce the problem (71%). As Table 2.27 shows, there was no significant difference between those households with children and those without in support for this method. Over half (58%) were in favour of making fast food outlets responsible for their own
litter and 50% thought that providing more litter bins would reduce the problem.

Fines were also seen as the best way of reducing the problem of dog fouling, considered likely to reduce the problem by 73% of those surveyed (Table 2.28). Half the respondents thought dog fouling would be reduced by more bins for dog fouling (53%), educating dog owners on the problems of dog fouling (51%) and providing special areas for dog walking (47%).

Dog owning households often held different views to non-dog owning houses. Fines were less popular with them (60% said this would be a good method compared to 77% of non-dog owners). Instead, they were more supportive of providing more bins (61%) and education for dog owners (57%).

Table 2.27 Ways of reducing litter by whether household has children

<table>
<thead>
<tr>
<th></th>
<th>Households with children</th>
<th>Households without children</th>
<th>All respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Percentage supporting each measure</strong>*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enforcing fines for those who drop litter</td>
<td>73</td>
<td>72</td>
<td>72</td>
</tr>
<tr>
<td>Educating children in school about litter</td>
<td>73</td>
<td>70</td>
<td>71</td>
</tr>
<tr>
<td>Making fast food outlets responsible for their own litter</td>
<td>59</td>
<td>57</td>
<td>58</td>
</tr>
<tr>
<td>Providing more bins</td>
<td>54</td>
<td>49</td>
<td>50</td>
</tr>
<tr>
<td>Employing (more) people to clean up litter</td>
<td>39</td>
<td>38</td>
<td>38</td>
</tr>
<tr>
<td>Litter wardens</td>
<td>28</td>
<td>32</td>
<td>31</td>
</tr>
<tr>
<td><strong>Sample size</strong></td>
<td>616</td>
<td>1,514</td>
<td>2,130</td>
</tr>
</tbody>
</table>

* Respondents could select as many answers as they wished.

* Respondents could select as many answers as they wished.

Table 2.28 Ways of reducing dog fouling by whether household has a dog

<table>
<thead>
<tr>
<th></th>
<th>Dog-owning households</th>
<th>Non dog-owning households</th>
<th>All respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Percentage supporting each measure</strong>*</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enforcing fines for people allowing dog fouling</td>
<td>60</td>
<td>77</td>
<td>73</td>
</tr>
<tr>
<td>Providing more bins for dog fouling</td>
<td>61</td>
<td>52</td>
<td>53</td>
</tr>
<tr>
<td>Educate dog owners on the problems of dog fouling</td>
<td>57</td>
<td>50</td>
<td>51</td>
</tr>
<tr>
<td>Provide special areas for dog walking</td>
<td>46</td>
<td>47</td>
<td>47</td>
</tr>
<tr>
<td>Employ dog wardens</td>
<td>27</td>
<td>31</td>
<td>30</td>
</tr>
<tr>
<td><strong>Sample size</strong></td>
<td>449</td>
<td>1,675</td>
<td>2,130</td>
</tr>
</tbody>
</table>
Appendix 5

Summary Proceedings by Persons Aggrieved by Litter Offences By Local Authorities and Others

The text of the legislation below has been edited to reflect its application in Scotland.

Section 91 Environmental Protection Act 1990 (Amended by Section 57(3) of the Antisocial Behaviour etc. (Scotland) Act 2004)

(1) The sheriff may act under this section on a summary application made by any person on the ground that he is aggrieved by the defacement, by litter or refuse of:-
   (a) any relevant road;
   (b) any trunk road, which is a special road;
   (c) any relevant land of a principal litter authority;
   (d) any relevant Crown land;
   (e) any relevant land of a designated statutory undertaker;
   (f) any relevant land of a designated educational institution; or
   (g) any relevant land within a litter control area of a local authority.

(2) The sheriff may also act on the summary application of a person aggrieved by the want of cleanliness of any road or any trunk road that is a special road.

(3) A principal litter authority shall not be treated as the aggrieved person for the purposes of proceedings under this section.

(4) Proceedings under this section shall be brought against the person who has the duty to keep the land clear under section 89(1) above or to keep the road clean under section 89(2) above, as the case may be.

(5) Before instituting the proceedings under this section against any person, the applicant shall give to the person not less than five days written notice of his intention to make the summary application and the notice shall specify the matter complained of.

(6) If the sheriff is satisfied that the road or land in question is defaced by litter or refuse, or in the case of a road, is wanting cleanliness, he may, subject to subsections (7) and (8) below, make an order ("a litter abatement order") requiring the person to clear the litter or refuse away, or clean the road within a time specified in the order.

(7) The sheriff will not make a litter abatement order if the person against whom the summary application is made proves that he has complied, as respects the road or land in question, with his duty under section 89(1) and (2) above.

(8) The sheriff shall not make a litter abatement order where it appears that the matter which is the subject of the summary application is the result of directions given to the local authority under section 89(6) above by the roads authority.

(9) A person who, without reasonable excuse, fails to comply with a litter abatement order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500 in 2006) together with a further fine of an amount equal to one-
twentieth of that level (£125 in 2006) for each day on which the offence continues after the conviction.

(10) In any proceedings for an offence under subsection (9) above it shall be a defence for the person against whom the proceedings are taken to prove that he has complied, as respects the road or land in question, with his duty under section 89(1) and (2) above.

(11) A
(a) direction under section 89(6A); or;
(b) code of practice under section 89(7)
shall be admissible in evidence in any proceedings and if any provision of such a direction or code appears to the court to be relevant to any question in the proceedings it shall be taken into account in determining that question.

(12) Where a sheriff is satisfied on the hearing of an application under this section—
(a) that, when the application was made to him, the road or land in question was defaced by litter or refuse or, as the case may be, was wanting in cleanliness, and
(b) that there were reasonable grounds for making the application,
the sheriff shall order the person against whom the proceedings are taken to pay such reasonable sum to the applicant as the sheriff may determine in respect of the expenses incurred by the applicant in making the application and the proceedings before the court.

(13) In the application of this section to Scotland—
(a) for any reference to a magistrates' court there shall be substituted a reference to the sheriff;
(b) for any reference to a complaint there shall be substituted a reference to a summary application, and "complainant" shall be construed accordingly;
(c) for any reference to the defendant there shall be substituted a reference to the person against whom the proceedings are taken;
(d) for any reference to a highway and a relevant highway there shall be substituted a reference to a road and a relevant road; and
(e) for any reference to a highway authority there shall be substituted a reference to a roads authority,
and any person against whom proceedings are brought may appeal on a point of law to the Court of Session against the making of a litter abatement order.
NOTICE OF OPPORTUNITY TO PAY FIXED PENALTY
Environmental Protection Act 1990, section 88

Alleged offender:

Address;

I, [3], an authorised officer/a constable (delete as necessary) of [4] have reason to believe that on [5] you committed an offence of leaving litter, under section 87 of the Environmental Protection Act 1990, in the area of [6]. This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. The circumstances alleged to constitute the offence are as follows:

No proceedings will be taken for this offence before the expiration of fourteen days following the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during that period of fourteen days.

The amount of the fixed penalty is [7]. It may be paid to [8] at the following address. [9].

Payment may be made by pre-paying and posting to [10] at [11] a letter containing the amount of the penalty. Payment may be in cash, or by a cheque, postal order or money order made payable to [12]. (If you are sending cash you are advised to send it by registered post). Payment made in this way will be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post. Alternatively payment may be made in person or by any other method.

Signature of authorised officer/or constable. .................................

Date. .................................

Letter which may be used for payment by post
I enclose with this letter the amount of , being the fixed penalty for an offence of leaving litter under section 87 of the Environmental Protection Act 1990.

Signature .................................

Name in capitals ................................. Date .................................

Notes:

[3] Insert name of authorised officer or constable.

[4] Insert name of litter authority or police force.

[5] Insert date on which offence is alleged to have been committed.
[6] Insert name of area of litter authority or place where the offence is alleged to have been committed.

[7] Insert amount of £50 or any different amount for the time being specified by the Scottish Ministers under section 88(7) of the Environmental Protection Act 1990.

[8] Insert title or name of the person to whom the fixed penalty is to be paid.

[9] Insert address at which payment is to be made.

[10] Insert title or name of the person to whom the fixed penalty is to be paid.

[11] Insert address at which payment is to be made.

[12] Insert title or name of the person to whom the fixed penalty is to be paid.
Appendix 7

Examples for use of Section 88 Fixed Penalty Notice

Please note that the following list is not exhaustive but shows a range of examples to clarify the types of situations were the use of section 88 is appropriate.

<table>
<thead>
<tr>
<th>Suitable situations</th>
<th>Unsuitable situations</th>
</tr>
</thead>
<tbody>
<tr>
<td>General litter items, such as drinks containers, confectionery packaging, etc</td>
<td>Overflowing and inadequately contained commercial waste</td>
</tr>
<tr>
<td>Chewing gum</td>
<td>Flytipping</td>
</tr>
<tr>
<td>Fast food packaging</td>
<td>Dog fouling</td>
</tr>
<tr>
<td>Elastic bands</td>
<td>Flyposting</td>
</tr>
<tr>
<td>General littering from vehicles</td>
<td>Excess household waste or side refuse</td>
</tr>
<tr>
<td>Advertising leaflets and cards</td>
<td>Escaped waste from waste management transport operations</td>
</tr>
<tr>
<td>Bus tickets</td>
<td></td>
</tr>
<tr>
<td>Bank slips</td>
<td></td>
</tr>
<tr>
<td>Betting slips</td>
<td></td>
</tr>
</tbody>
</table>
Appendix 8

Example Standard Warning Letter for Youth Littering Offences

Our Ref:

Your Ref:

Date

Parent or Guardian of [NAME]
[ADDRESS]

Dear Sir / Madam,

ENVIRONMENTAL PROTECTION ACT 1990
Section 87 - The Offence of Leaving Litter

I write to advise you that at [TIME], [PLACE] your son / daughter / ward, [NAME] was witnessed dropping litter by officers of [COUNCIL]. As the parent or guardian, I have to inform you that [NAME] received a verbal warning from the officers at the time of the offence.

The offence of leaving litter is usually subject to a fixed penalty fine of £50 or a maximum fine of £2,500 if the case is referred to the Sheriff Court.

The issue of littering is one which the community expect the local authority to take action on. [COUNCIL] have an ongoing programme of information and awareness raising on this issue and we hope we have your support in our fight to improve the quality of your local environment.

Thank you for your co-operation in this matter.

Yours faithfully

[NAME]
[DESIGNATION]
Appendix 9

Section 93 and 94 – Street Litter Control Notices

A principal litter authority may, with a view to the prevention of accumulations of litter or refuse in and around any street or open land adjacent to any street, issue notices (‘street litter control notices’) imposing requirements on occupiers of premises in relation to such litter or refuse. If the authority is satisfied, in respect of any premises which are of a description prescribed under section 94 and have a frontage on a street in their area, that:

• there is recurrent defacement by litter or refuse of any land, being part of the street or open land adjacent to the street, which is in the vicinity of the premises

• the condition of any part of the premises which is open land in the vicinity of the frontage is, and if no notice is served is likely to continue to be, detrimental to the amenities of the locality by reason of the presence of litter or refuse

• there is produced, as a result of the activities carried out on the premises, quantities of litter or refuse of such nature and in such amounts as are likely to cause the defacement of any part of the street, which is in the vicinity of the premises,

the authority may serve a street litter control notice on the occupier or, if the premises are unoccupied, on the owner of the premises.

Notices must specify appropriate and reasonable requirements in relation to the area of open land which adjoins the vicinity of the frontage of the premises on the street – the ‘specified area’. Notices can include clearing away litter and provision or emptying of litter bins. The owner cannot be required to clear litter or refuse from any carriageway unless it is closed to all vehicular traffic.

A person on whom a notice is served may appeal against the notice to the court by way of summary application, within 21 days of the notice being served. If it appears to the authority that a person has failed or is failing to comply with any requirement imposed by a notice, the authority may apply to the Sheriff by way of summary application for an order requiring the person to comply with the requirement within such time as may be specified in the order. If a person fails to comply with an order, without reasonable excuse, they shall be guilty of an offence and liable to summary conviction to a fine not exceeding level 4 on the standard scale – which is currently £2,500 as at 2006.
Types of land which a street litter control notice may be served on include:

- up to 10 metres from an automated teller machine
- up to 100 metres away from various premises as described in the Street Litter Control Notices Order 1991, as amended in 1997. These include betting offices and shops, premises where lottery tickets are sold, premises where goods are displayed adjacent to or in front of the premises, fast food premises.
STATUTORY INSTRUMENTS

1991 No. 1324

ENVIRONMENTAL PROTECTION

The Street Litter Control Notices Order 1991

Made 5\textsuperscript{th} June 1991

Laid before Parliament 10\textsuperscript{th} June 1991

Coming into force 1\textsuperscript{st} July 1991

The secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland, in exercise of the powers conferred on them by section 94(1)(a) and (b) and (2) of the Environmental Protection Act 1990(a), and of all other powers enabling them in that behalf, hereby make the following Order:-

\textbf{Citation and commencement}
1. This Order may be cited as the Street Litter Control Notices Order 1991 and shall come into force on 1\textsuperscript{st} July 1991.

\textbf{Prescribed commercial and retail premises}
2. A street litter control notice may be issued in respect of commercial and retail premises of the following descriptions –
   (a) Premises used wholly or partly for the sale of food or drink for consumption off the premises,
   (b) Premises used wholly or partly for the sale of food or drink on a part of the premises forming open land adjacent to the street,
   (c) Service stations and other premises on which fuel for motor vehicles is sold to the public,
   (d) Premises used wholly or partly as a cinema, theatre, concert hall, bingo hall, casino, dance hall, swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, or as an amusement arcade or centre, or
   (e) Banks, building society offices or other premises with automated teller machines located on an outside wall of the premises.

\textbf{Prescribed descriptions of land}
3.- (1) Land which may be included in an area of open land specified in a street litter control notice is land which is part of the premises in respect of which the notice is issued and, subject to paragraph (2) below, land of the following descriptions –
   (i) land which is part of a street, other than a carriageway when it is open to vehicular traffic,
   (ii) relevant land of a principal litter authority, and
   (iii) land under the direct control of any other local authority.
2) The land described in paragraph (1)(i) to (iii) may be specified-
a) In a street litter control notice issued in respect of premises described in article 2(e) above if the land is within 10 metres of those premises,
b) In a street litter control notice in respect of any other premises, if the land is within 100 metres of the premises.

5th June 1991

Michael Heseltine
Secretary of State for the Environment

5th June 1991

David Hunt
Secretary of State for Wales

5th June 1991

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish Office

EXPLANATORY NOTE

(This is not part of the Order)

This Order, which applies throughout Great Britain, makes provision in respect of the control of litter on streets. Article 2 prescribes the descriptions of commercial or retail premises in respect of which a street litter control notice may be issued by a principal litter authority. Article 3 prescribes the descriptions of open land which may be specified in the notice.
The Secretary of State for the Environment, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland, in exercise of the powers conferred on them by section 94(1)(a) and (2) of the Environmental Protection Act 1990(a), and of all other powers enabling them in that behalf, hereby make the following Order:-

Citation and commencement
1. This Order may be cited as the Street Litter Control Notices (Amendment) Order 1997 and shall come into force on 28th March 1997.

Amendment of the Street Litter Control Notices Order 1991
2. Article 2 of the Street Litter Control Notices Order 1991(b) shall be amended by the omission of “or” at the end of article 2(d) and the insertion after article 2(e) of:-
“(f) premises in respect of which there is for the time being in force a betting office licence granted under Schedule 1 to the Betting, Gaming and Lotteries Act 1963(c),
(f) premises used wholly or partly for the sale of tickets or chances in any lottery, or
(g) premises used wholly or partly for the sale of goods of any description which are displayed on open land adjacent to the street, or on the street.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes further descriptions of commercial or retail premises in respect of which a street litter control notice may be issued by a principal litter authority under section 93 of the Environmental Protection Act 1990.
NOTICE of intention to serve a street litter control notice

ISSUED BY (name) Council

ENVIRONMENTAL PROTECTION ACT 1990
PART IV SECTION 94(6)

To: (name) of (address)

1 Notice
(name) ............ Council (the Council) as the principal litter authority GIVES YOU NOTICE pursuant to the Environmental Protection Act 1990 Section 94(6) that it proposes to serve a street litter control notice upon you.

2 What to do if you object
If you would like to make any representations with regard to the above proposed notice, you have 21 days from the date on which this notice is served upon you to do so.

Dated (date)

(signature of proper officer of authority)
Environmental Protection Act 1990  Section 93

STREET LITTER CONTROL NOTICE

To

Address

The (here insert the name of council) ("the Council") as the principal litter authority, is satisfied in respect of the premises as:

KNOWN AS: and (the street) ("the premises") which have a frontage to the street known as:

("the street") that

[there is recurrent defacement by [litter][refuse][of land being part of the street][open land adjacent to the street] which is in the vicinity of the premises.]
[The condition of part of the premises which is open land in the vicinity of the frontage is detrimental to the amenities of the locality by reason of the premises of [litter][refuse]]
[There are produced as a result of activities carried on the premises, quantities of [litter][refuse] of such nature and in such amounts as are likely to cause defacement of any part of [the street][open land adjacent to the street] which is in the vicinity of the premises.]
[The open land referred to above is (here describe the open land)

[shown edged red on the plan accompanying this notice]
which [adjoins][is in the vicinity of] the frontage of the premises on the street]

The council therefore **Gives You Notice** that it requires you to comply with the following requirements;- 

To [provide][comply] the following for [litter][refuse]-

**Within** a period of from the date of service of this notice on you to

(*here specify any other requirements*)

[and afterwards to do the same at the following times on intervals, namely

(*here itemise further requirements as considered necessary*)

You have the right of appeal against this notice to the Sheriff, who may, on hearing your appeal, quash this notice, or quash, vary or add to any requirement imposed by this notice.

If you fail to comply with any requirement of this notice the Council may apply to the Sheriff for an order requiring you to comply. If you fail, without reasonable excuse, to comply with the Sheriff's order, you will be guilty of an offence and liable on conviction to a fine not exceeding level 4 on the standard scale.

**Dated** ........................................

**Signed** ........................................

**Designation** ..................................
Please address any communication to:
(Here show name and address of relevant officer)

The following are notes only and should not be included on the above notice

The font and format may differ; the Council logo may be added. The words used in the notice should not be altered as they comply with the wording in the section.

Fine level currently (as at 2006) at £2,500
# SSI DESIGNATION FORM

<table>
<thead>
<tr>
<th>SSI Title &amp; No:</th>
<th>The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006, (SSI 2006/530)</th>
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<tbody>
<tr>
<td>Responsible Minister</td>
<td>Ross Finnie, Minister for Environment and Rural Development</td>
</tr>
<tr>
<td>Standing Order</td>
<td>Affirmative 10.6.1(a) Negative 10.4 ✔ 10.6.1(b) 10.5 10.6.1(c) Other NL NP</td>
</tr>
<tr>
<td>Lead Committee</td>
<td>Environment and Rural Development Other Committee</td>
</tr>
<tr>
<td>Purpose of Instrument</td>
<td>The purpose of this instrument is to enforce EC Regulation 999/2001 and its amending instruments which lay down rules for the prevention, control and eradication of transmissible spongiform encephalopathies.</td>
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<tr>
<td>Laid Date</td>
<td>2nd November 2006 20 day date 22nd November 2006</td>
</tr>
<tr>
<td>1st SLC Meeting</td>
<td>7th November 2006 40 day date 11th December 2006</td>
</tr>
<tr>
<td>Lead Committee Report Due</td>
<td>4th December 2006 Other Committee Report Due</td>
</tr>
<tr>
<td>SE Contact</td>
<td>Alastair Douglas, 46129</td>
</tr>
<tr>
<td>Committee Contact</td>
<td>Mark Brough, 85240</td>
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For SLC use:

<table>
<thead>
<tr>
<th>Article 10 Compliance</th>
<th>Breaks 10(1) rule</th>
<th>Breaks 10(2) rule</th>
<th>PO Letter dated</th>
<th>PO Letter received</th>
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<tr>
<td>Revocations</td>
<td>Revokes</td>
<td>See Purpose of Instrument</td>
<td>Partially Revokes</td>
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<tr>
<td>Executive Note</td>
<td>✔ Regulatory Impact Assessment</td>
<td>✔ European Regulations/ Directives</td>
<td>✔</td>
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<tr>
<td>Additional Information</td>
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