

DOG FOULING (SCOTLAND) ACT 2003

EXPLANATORY NOTES

SUMMARY OF AND BACKGROUND TO THE ACT

3. Section 48 of the [Civic Government \(Scotland\) Act 1982 \(c.45\)](#) makes it an offence for a person to allow a dog to foul on certain specified land, including footpaths, pedestrian precincts and children's play areas maintained by a local authority. The offence is committed irrespective of whether the excrement is immediately removed by the person in charge of the dog. Currently only the police are able to take action against offenders. In addition, there are no provisions to allow the offence to be dealt with by means of a fixed penalty notice.
4. The Act has two principal aims. The first of these is to amend the offence of dog fouling so that the offence consists of failing to clear up after a dog rather than of allowing a dog to foul. The second principal aim is to establish new enforcement provisions in connection with the offence by enabling local authorities and police constables to issue fixed penalty notices to persons suspected of committing the offence.
5. Specifically the Act:
 - makes it an offence for a person in charge of a dog, who, after allowing that dog to foul, fails to clear away and dispose of the excrement appropriately;
 - applies to all public places, including common passages, closes, courts, stairs, back greens and other similar areas subject to specified exceptions;
 - makes the offence of dog fouling an offence in respect of which the evidence of only one witness is sufficient;
 - provides authorised local authority officers and police constables with the power to issue fixed penalty notices to any person who is suspected on reasonable grounds of committing an offence under the Act;
 - provides that it is an offence for a person suspected of committing an offence under the Act to fail, without reasonable excuse, to give their name and address to an authorised local authority officer;
 - provides that when a fixed penalty notice has been issued criminal proceedings can be brought against the suspected offender unless he or she requests a hearing within 28 days of the notice being issued or the notice is withdrawn;
 - requires local authorities to authorise persons to issue fixed penalty notices; and
 - provides that failure either to pay a fixed penalty notice or to request a hearing within the 28 day period will result in the fixed penalty being increased by 50% and being enforceable as if it were a court decree.