

DOG FOULING (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8: Request for a hearing

34. This section provides that a person who has been issued with a fixed penalty notice may request a hearing in respect of the offence. Any such request must be in writing and must be posted in sufficient time to arrive with the local authority within the 28-day period mentioned above. When sent by post, service is effected at the time when the notice would arrive in the normal course of post. Accordingly, if a notice arrives with the local authority outwith the period for paying it may be valid depending on when it was posted.
35. Subsection (4) provides that when a hearing is requested within the required timescale the fixed penalty is no longer payable. A person authorised for the purpose of notification must provide the procurator fiscal with details of the request for a hearing unless the fixed penalty notice has been withdrawn under section 13. The procurator fiscal will treat the request in a similar manner to a complaint from the police and decide whether to initiate district court or sheriff court proceedings. In the event of a conviction following such proceedings the offender would be liable a fine of up to £500 (see section 1(2)).