

ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 –Noise Nuisance

Section 51 –Fixed Penalty Notices: supplementary

144. **Section 51** contains supplementary provisions concerning FPNs.
145. Subsection (1) enables the Scottish Ministers by order, which will be subject to negative resolution procedure to specify the form in which a FPN must be issued.
146. Subsection (2) provides that proceedings for an offence cannot be instituted before the end of a period of 28 days following the date of service of the notice, and the person cannot be convicted of the offence if the person pays the fixed penalty before the end of that period. A person may be convicted of a further offence under section 45 in respect of noise emitted from relevant property after the FPN is served but before the end of the period specified in the warning notice.
147. Subsection (3) would apply in the event of proceedings for an offence under section 45. It enables evidence of the payment or non-payment of a fixed penalty before the end of any period to be produced by way of a certificate purporting to be signed by or on behalf of the person responsible for the financial affairs of the local authority, and which states that payment was made on any date or was not received before the end of that period.
148. Subsection (4) enables the Scottish Ministers by order, which will be subject to negative procedure to amend section 46(10) so as to change the amount of the fixed penalty payable. Subsection (5) limits any change to an amount not exceeding level 2 (£500) on the standard scale.
149. Subsection (6) provides that any payment received by a local authority under section 46 shall be treated a fine imposed by a district court.