

# **ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 6 – the Environment**

##### ***Section 56 – Litter: power of constables to issue fixed penalty notices***

160. The existing regime which permits fixed penalty notices to be issued for littering offences (on which the regime for fly-tipping offences above is modelled) is set out in section 88 of the 1990 Act. Until now it has given authorised officers of local authorities, only, the power to issue fixed penalty notices to individuals who commit litter offences, which are described in section 87 of the 1990 Act as an alternative to being reported to the procurator fiscal for prosecution. Section 88 of the 1990 Act, as amended by section 56 of the Act, now gives police constables, as well as authorised officers of the local authority, the power to issue fixed penalty notices in respect of littering offences. The subsequent administration will remain exactly as it is at present. However, subsection (6) restricts the power of the Scottish Ministers to vary the level of the fixed penalty by order to an upper limit of level 2 on the standard scale (currently £500), consistent with the limit on the fixed penalty fine for fly-tipping.