



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 11

FIXED PENALTIES

Fixed penalty notices and penalties

129 Fixed penalty notices

- (1) A constable who has reason to believe that a person aged 16 or over has committed a fixed penalty offence in a prescribed area may give the person a fixed penalty notice in respect of the offence.
- (2) In subsection (1)—
 - “fixed penalty notice” means a notice offering the opportunity, by paying a fixed penalty in accordance with this Part, to discharge any liability to be convicted of the offence to which the notice relates; and
 - “prescribed area” means an area prescribed by the Scottish Ministers by regulations.

130 Amount of fixed penalty and form of fixed penalty notice

- (1) Subject to subsection (2), the penalty payable in respect of a fixed penalty offence is such amount as the Scottish Ministers may specify by order.
- (2) The Scottish Ministers may not specify an amount exceeding level 2 on the standard scale.
- (3) A fixed penalty notice shall—
 - (a) state the alleged offence;
 - (b) give such particulars of the circumstances alleged to constitute the offence as are necessary to provide reasonable information about it;
 - (c) state the amount of the fixed penalty;

Status: Point in time view as at 10/03/2008.

Changes to legislation: Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Fixed penalty notices and penalties is up to date with all changes known to be in force on or before 04 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) state the clerk of the [F1]justice of the peace court] to whom, and the address at which, the fixed penalty may be paid;
- (e) inform the person to whom it is given of the right to ask to be tried for the alleged offence and explain how that right may be exercised; and
- (f) include such other information as the Scottish Ministers may by order prescribe.

Textual Amendments

F1 Words in s. 130(3)(d) substituted (for specified purposes at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009, and otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 32\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch. (with arts. 4-6); S.S.I. 2008/192, [art. 3](#), Sch; S.S.I. 2008/329, [art. 3](#), Sch; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2

131 Effect of fixed penalty notice

- (1) This section applies if a fixed penalty notice is given to a person (“A”) under section 129.
- (2) Subject to subsection (3), proceedings may not be brought against A.
- (3) If A asks to be tried for the alleged offence, proceedings may be brought against A.
- (4) Such a request shall be made by a notice given by A—
 - (a) in the manner specified in the fixed penalty notice; and
 - (b) before the end of the period of 28 days beginning with the day on which the notice is given.
- (5) If, by the end of the period mentioned in paragraph (b) of subsection (4)—
 - (a) the fixed penalty has not been paid in accordance with this Part; and
 - (b) A has not made a request in accordance with that subsection,
 then A is liable to pay to the clerk of the [F2]justice of the peace court] specified in the fixed penalty notice a sum equal to one and a half times the amount of the fixed penalty.
- (6) A sum for which A is liable by virtue of subsection (5) shall be treated as if it were a fine imposed by the [F2]justice of the peace court] specified in the fixed penalty notice.

Textual Amendments

F2 Words in s. 131(5)(6) substituted (for specified purposes at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009, and otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 32\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch. (with arts. 4-6); S.S.I. 2008/192, [art. 3](#), Sch; S.S.I. 2008/329, [art. 3](#), Sch; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2

132 Payment of fixed penalty

- (1) The fixed penalty stated in a fixed penalty notice is payable to the clerk of the [F3]justice of the peace court] specified in the notice.
- (2) Payment of the penalty may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise).

Status: Point in time view as at 10/03/2008.

Changes to legislation: Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Fixed penalty notices and penalties is up to date with all changes known to be in force on or before 04 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subsection (4) applies if a person—
 - (a) claims to have made payment in accordance with subsection (2); and
 - (b) shows that a letter was posted.
- (4) Unless the contrary is proved, payment is to be regarded as being made at the time at which the letter would be delivered in the ordinary course of post.
- (5) Subsection (2) is not to be read as preventing the payment of a penalty by other means.
- (6) ^{F4}
- (7) A letter is properly addressed for the purposes of subsection (2) if it is addressed in accordance with the requirements specified in the fixed penalty notice.

Textual Amendments

- F3** Words in s. 132(1) substituted (for specified purposes at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009, and otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, **Sch. para. 32(b)**; S.S.I. 2008/42, **art. 3**, Sch. (with arts. 4-6); S.S.I. 2008/192, **art. 3**, Sch; S.S.I. 2008/329, **art. 3**, Sch; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F4** S. 132(6) repealed (for specified purposes at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009, and otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, **Sch. para. 32(c)**; S.S.I. 2008/42, **art. 3**, Sch. (with arts. 4-6); S.S.I. 2008/192, **art. 3**, Sch; S.S.I. 2008/329, **art. 3**, Sch; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2

Status:

Point in time view as at 10/03/2008.

Changes to legislation:

Antisocial Behaviour etc. (Scotland) Act 2004, Cross Heading: Fixed penalty notices and penalties is up to date with all changes known to be in force on or before 04 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.