



# 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.

#### **Modifications etc. (not altering text)**

- C1** Ss. 129-134 applied (with modifications) (temp.) (26.3.2020 at 7.15 p.m.) by [The Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/103\)](#), regs. 1(1), **9(6)(7)** (with reg. 11)
- C2** Ss. 129-134 applied (with modifications) (temp.) (8.6.2020) by [The Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/169\)](#), regs. 1(2), **11(4)(5)** (with reg. 15)
- C3** Ss. 129-134 applied (with modifications) (temp.) (5.8.2020 at 5.00 p.m.) by [The Health Protection \(Coronavirus, Restrictions\) \(Aberdeen City\) Regulations 2020 \(S.S.I. 2020/234\)](#), regs. 1, **8(6)(7)** (with reg. 9)

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### 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;
  - (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

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### 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

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- (b) A has not made a request in accordance with that subsection, then A is liable to pay to the clerk of the [F<sup>2</sup>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 [F<sup>2</sup>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

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### 132 Payment of fixed penalty

- (1) The fixed penalty stated in a fixed penalty notice is payable to the clerk of the [F<sup>3</sup>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).
- (3) Subsection (4) applies if a person—
- claims to have made payment in accordance with subsection (2); and
  - 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) F<sup>4</sup> . . . . .
- (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

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- 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

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