



# Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

## PART 5

### NOISE NUISANCE

#### *Noise control provisions*

#### 46 Fixed penalty notices

- (1) Subject to subsection (3), where a relevant officer has reason to believe that a person—
  - (a) is committing; or
  - (b) has just committed,an offence under section 45, the officer may give that person a notice (a “fixed penalty notice”) offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) In subsection (1), “relevant officer” means—
  - (a) an officer of the local authority authorised for the purposes of this section; or
  - (b) a constable.
- (3) If a fixed penalty notice is given to a person in respect of noise emitted from relevant property in the period specified in a warning notice, no further fixed penalty notice may be given to that person in respect of noise emitted from the relevant property during that period.
- (4) Subject to subsection (5), a fixed penalty notice may be given to a person by delivering the notice to the person.
- (5) If it is not reasonably practicable to deliver it to the person, a fixed penalty notice shall be given by leaving the notice, addressed to the person, at the offending property.
- (6) A fixed penalty notice shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

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**Changes to legislation:** *Antisocial Behaviour etc. (Scotland) Act 2004, Section 46 is up to date with all changes known to be in force on or before 17 April 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) View outstanding changes*

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- (7) A fixed penalty notice shall state—
- (a) the period during which, by virtue of paragraph (a) of section 51(2), proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty; and
  - (c) the person to whom, and the address at which, the fixed penalty may be paid.
- (8) Payment of the fixed penalty may (among other methods) be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).
- (9) Where a letter containing the amount of the penalty is sent in accordance with subsection (8), payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) The fixed penalty payable under this section is £100.
- (11) A fixed penalty payable under this section shall be payable to the local authority whose officer issued the warning notice under reference to which the offence was committed.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 85B inserted by [2014 asp 14 s. 21\(1\)](#)