



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 6

THE ENVIRONMENT

Controlled waste and litter

55 Contraventions of section 33(1)(a) and (c) of 1990 Act: fixed penalty notices

After section 33 of the Environmental Protection Act 1990 (c. 43) (“the 1990 Act”) there shall be inserted—

“33A Fixed penalty notices for contraventions of section 33(1)(a) and (c): Scotland

- (1) Where—
 - (a) an authorised officer of a local authority has reason to believe that a person has committed a relevant offence in the area of that authority; or
 - (b) a constable, or an authorised officer of a waste regulation authority, has reason to believe that a person has committed a relevant offence,he may give that person a notice under this section in respect of the offence.
- (2) In subsection (1) above, “relevant offence” means an offence under section 33 above in respect of a contravention of subsection (1)(a) or (c) of that section.
- (3) A notice under this section is a notice offering the opportunity, by paying a fixed penalty, of discharging any liability to conviction for the offence to which it relates.
- (4) Where—
 - (a) a constable; or
 - (b) an authorised officer of a waste regulation authority,

Status: This is the original version (as it was originally enacted).

gives a notice under this section to a person, he shall, no later than 24 hours after the giving of the notice, send a copy of it to the local authority in whose area the offence was committed.

- (5) Where a person is given a notice under this section in respect of an offence—
- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice; and
 - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (6) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence and shall state—
- (a) the period during which, by virtue of subsection (5)(a) above, 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;
- and without prejudice to payment by any other method, payment of the fixed penalty may 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).
- (7) Where a letter is sent in accordance with subsection (6) above payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (8) The form of notices under this section shall be such as the Scottish Ministers may by order prescribe.
- (9) The fixed penalty payable in pursuance of a notice under this section shall, subject to subsection (10) below, be £50.
- (10) The Scottish Ministers may by order substitute a different amount (not exceeding level 2 on the standard scale) for the amount for the time being specified as the amount of the fixed penalty in subsection (9) above.
- (11) In any proceedings a certificate which—
- (a) purports to be signed by or on behalf of the proper officer for the local authority in whose area the offence was committed; and
 - (b) states that the payment of a fixed penalty was or was not received by a date specified in the certificate,
- shall be evidence of the facts stated.
- (12) A fixed penalty payable in pursuance of a notice under this section shall be payable to the local authority in whose area the offence was committed; and as respects the sums received by a local authority, those sums shall be treated as if the penalty were a fine imposed by a district court.
- (13) In this section—
- “authorised officer” means an officer of the authority in question who is authorised in writing by the authority for the purpose of issuing notices under this section;
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39); and “area”, in relation to a

local authority, means the local government area (within the meaning of that Act) for which the council is constituted;

“proper officer” means the officer who has, as respects the authority, the responsibility mentioned in section 95 of the Local Government (Scotland) Act 1973 (c. 65) (financial administration).”.