



# 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;

- (d) state the clerk of the district 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.

### **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 district 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 district court specified in the fixed penalty notice.

### **132 Payment of fixed penalty**

- (1) The fixed penalty stated in a fixed penalty notice is payable to the clerk of the district 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—
  - (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) Any sum received by the clerk of a district court by virtue of subsection (1) or section 131(5) shall be treated as if it were a fine imposed by that court.
- (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.