
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 262

The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020

Fixed penalty notices

13.—(1) A constable [^{F1}or local authority designated officer] may issue a fixed penalty notice to anyone that the constable [^{F1}or local authority designated officer] reasonably believes—

- (a) has committed an offence under these Regulations, and
- (b) is aged 18 or over.

(2) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty in accordance with these Regulations.

(3) The penalty payable in respect of a fixed penalty notice, subject to paragraph (4), is £60.

(4) Unless paragraph (5) applies, if £30 is paid before the end of the period of 28 days beginning with the date of the fixed penalty notice, then that is the amount of the fixed penalty (and the fixed penalty notice must make known the effect of this paragraph).

(5) If the person to whom a fixed penalty notice is given has already received a fixed penalty notice under these Regulations—

- (a) paragraph (3) does not apply, and
- (b) the penalty payable in the case of—
 - (i) the second fixed penalty notice received is £120,
 - (ii) the third and subsequent fixed penalty notice received is double the amount specified in the last fixed penalty notice received by that person, to a maximum of £960.

(6) For the purposes of paragraph (5), a fixed penalty notice issued under the following provisions is to be treated as if it were issued under these Regulations—

- (a) regulation 8 of the Health Protection (Coronavirus, Restrictions) (Aberdeen City) Regulations 2020 ^{M1},
- (b) regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 ^{M2},
- ^{F2}(c) regulation 16 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020,
- (d) regulation 27 of the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020.]

(7) For the purposes of these Regulations—

- (a) the form of a fixed penalty notice,
- (b) the effect of a fixed penalty notice, and
- (c) the procedure that applies to a fixed penalty notice,

are the same as those that apply to a fixed penalty notice given under section 129(1) of the Antisocial Behaviour etc. (Scotland) Act 2004^{M3}, as provided for in sections 129 to 134 of that Act and sections 226B and 226I of the Criminal Procedure (Scotland) Act 1995^{M4}, subject to the modifications in paragraph (8).

(8) The modifications are—

- (a) section 129(1) is to be disregarded,
- (b) the definitions of “fixed penalty notice” in sections 129(2) and 134 are to be construed as a reference to a notice under paragraph (1),
- (c) the definition of “prescribed area” in section 129(2) is to be disregarded,
- (d) section 130(1), (2) and (3)(f) is to be disregarded,
- (e) the references to “section 129” in section 131(1) and section 133(1) are to be construed as references to this regulation,
- (f) in section 131(5)—
 - (i) the reference to “in accordance with this Part” is to be construed as a reference to these Regulations, and
 - (ii) the reference to “a sum equal to one and a half times” is to be disregarded.
- [^{F3}(ff) the references to “constable” in section 133(1) are to be construed as references to a constable or local authority designated officer,]
- (g) the definition of “fixed penalty offence” in section 134 is to be construed as though it referred to an offence of the type referred to in paragraph (1)(a), and
- (h) in section 226B(5)(a)(ii) of the Criminal Procedure (Scotland) Act 1995—
 - (i) the reference to “by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004” is to be construed as a reference to that section as modified by this paragraph, and
 - (ii) the reference to “a fixed penalty notice given under section 129 (fixed penalty notices) of that Act” is to be construed as a reference to section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 as modified by this paragraph.

[^{F4}(9) Where the person issuing a notice under paragraph (1) is a local authority designated officer, the officer may require the person believed to have committed an offence (“A”) to give A's name and address.

(10) When making that requirement, the officer must inform A—

- (a) that the officer believes A has committed an offence under these Regulations, and
- (b) that failure to comply with the requirement may be an offence.

(11) If A has been required under this section to give A's name and address and, without reasonable excuse, fails to do so, A will be guilty of an offence and liable, on summary conviction, to a fine not exceeding the statutory maximum.]

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| F1 | Words in reg. 13(1) inserted (2.11.2020 at 6.00 a.m.) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (S.S.I. 2020/344) , regs. 1(1), 10(1)(b)(i) (with reg. 9) |
| F2 | Reg. 13(6)(c)(d) inserted (2.11.2020 at 6.00 a.m.) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (S.S.I. 2020/344) , regs. 1(1), 10(1)(b)(ii) (with reg. 9) |
| F3 | Reg. 13(8)(ff) inserted (2.11.2020 at 6.00 a.m.) by The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (S.S.I. 2020/344) , regs. 1(1), 10(1)(b)(iii) (with reg. 9) |

- F4** Reg. 13(9)-(11) inserted (2.11.2020 at 6.00 a.m.) by [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/344\)](#), regs. 1(1), **10(1)(b)(iv)** (with reg. 9)

Commencement Information

- I1** Reg. 13 in force at 28.8.2020, see reg. 1(2)

Marginal Citations

- M1** [S.S.I. 2020/234](#).
- M2** [S.S.I. 2020/103](#) as amended by the [Coronavirus \(Scotland\) \(No. 2\) Act 2020 \(asp 10\)](#) and [S.S.I. 2020/182](#).
- M3** [2004 asp 8](#). Sections 130, 131, 132 were amended by para 32(b) of schedule 1 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#). Section 132 was amended by para 32(c) of schedule 1 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).
- M4** [1995 c.46](#). Sections 226B and 226I were inserted by section 55 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#). Sections 226B and 226I have been amended but none of the amendments are relevant to these Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020, Section 13.