

HOUSING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 Regulation of Private Rented Housing

Section 29 – Fixed penalty notices

68. This section allows persons acting on behalf of licensing authorities, by notice, to offer persons suspected of committing an offence under this Part the opportunity to discharge any liability to conviction for the offence through payment of a fixed penalty. The offer can only be made by notice and the person making the offer must be authorised in writing by the licensing authority to do so. Fixed penalty notices may not be offered to persons suspected of having committed offences under section 13(3) or section 38(4).
69. Where a person is given a notice in respect of an offence, no proceedings for a conviction can be issued before a period of 21 days following the date of notice has expired. If the person pays the fixed penalty before the end of the period, that person may not be convicted of the offence. The process for giving notice is set out in section 48.
70. A notice must set out a number of matters. It must provide reasonable information on the circumstances alleged to constitute the offence. It must also state the period during which proceedings will not be taken, the amount of the fixed penalty and the person to whom and address at which, the fixed penalty may be paid.
71. The fixed penalty under this section is £150 unless the offence is one that attracts a fine that is not limited to the standard scale for fines, in which case it is £250. The Welsh Ministers have the power to vary these amounts by order.
72. Payment can be made by pre-paying and posting a letter containing the amount of the penalty in cash or otherwise, or by another method, which will need to be acceptable to the licensing authority. If posted, the payment is treated as having been made when the letter would ordinarily have been delivered in the post. Receipts from fixed penalty notices can only be used by a licensing authority for its functions relating to the enforcement of Part 1 of the Act.
73. The “licensing authority” for this section is defined in subsection (10)(a) to (d). A local housing authority that is not the licensing authority for its area can exercise the functions under this section in its area in relation to an offence under section 10(a); but the local housing authority needs the prior consent of the relevant licensing authority to do so.