

SCHEDULE 1
(introduced by section 27)

FIXED PENALTIES

Preliminary

- 1 In this schedule, unless the context requires otherwise—
“notice” means a fixed penalty notice given under section 27(1),
“the offence” means the offence to which the notice relates,
“the council” means the council in whose area the offence was alleged to have been committed.

Content of fixed penalty notice

- 2 (1) A notice must give reasonable particulars of the circumstances alleged to constitute the offence.
- (2) A notice must also contain the following information—
(a) the amount of the fixed penalty,
(b) the payment deadline,
(c) the discounted amount and the discounted payment deadline,
(d) the name of the council (or the person acting on the council’s behalf) to which payment should be made,
(e) the address at which payment should be made,
(f) the method by which payment should be made.
- (3) A notice must state the following—
(a) any liability to conviction of the offence is discharged if the person makes payment of—
(i) the fixed penalty before the payment deadline, or
(ii) the discounted amount before the discounted payment deadline,
(b) the payment of a fixed penalty is not a conviction nor may it be recorded as such,
(c) no proceedings may be commenced against the person in respect of the offence unless the payment deadline has passed and the fixed penalty has not been paid.

Period in which notice can be given

- 3 A notice may not be given after such time relating to the offence as may be prescribed.

Amount of penalty

- 4 (1) The—
(a) amount of the fixed penalty, and
(b) discounted amount,
are such amounts as may be prescribed.
- (2) Regulations under sub-paragraph (1) may provide for the amount to be different depending on whether, during a prescribed period, the offender has been—

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- (a) issued with a fixed penalty notice or notices in respect of any offence or offences of a prescribed description, or
- (b) convicted of any offence or offences of a prescribed description.

Deadlines for payment

- 5
- (1) The payment deadline is the first working day at least 28 days after the day on which the notice is given.
 - (2) But the council may extend the payment deadline in any particular case after the notice is given if it considers it appropriate to do so.
 - (3) On extending the payment deadline under sub-paragraph (2), the council must notify the recipient of the fixed penalty notice.
 - (4) The discounted payment deadline is the first working day at least 14 days after the day on which notice is given.

Method of payment

- 6
- The fixed penalty (and the discounted payment amount) is payable—
- (a) to the council or the person acting on its behalf specified in the notice,
 - (b) at the address specified in the notice,
 - (c) by the method specified in the notice.

Restriction on proceedings and effect of payment

- 7
- (1) The earliest date that proceedings for the offence may be commenced is the day after the payment deadline.
 - (2) But no such proceedings may be commenced against a person if—
 - (a) the person makes payment of the discounted amount on or before the discounted payment deadline, or
 - (b) the person makes payment of the fixed penalty on or before the payment deadline.
 - (3) In proceedings for the offence, a certificate which—
 - (a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the council, and
 - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,is sufficient evidence of the facts stated.

Withdrawal of fixed penalty notice

- 8
- (1) A recipient of a notice may make representations to the council as to why the notice ought not to have been given.
 - (2) If, having considered any representations made under sub-paragraph (1), the council considers that a fixed penalty notice ought not to have been given, it may give to the person a notice withdrawing the fixed penalty notice.
 - (3) Where a notice under sub-paragraph (2) is given—

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- (a) the council must repay any amount which has been paid in pursuance of the fixed penalty notice, and
- (b) no proceedings are to be commenced against the person for the offence.

Effect of prosecution on fixed penalty notice

- 9 Where proceedings for an offence in respect of which a notice has been given are commenced, the notice is to be treated as withdrawn.

General and supplemental

- 10 The Scottish Ministers may make regulations about—
- (a) the application by councils of payments received under this schedule,
 - (b) the keeping of accounts, and the preparation and publication of statements of account, in relation to payments received under this schedule.
- 11 (1) The Scottish Ministers may prescribe—
- (a) the form of notices,
 - (b) the circumstances in which notices may not be given, and
 - (c) the method or methods by which fixed penalties may be paid.
- (2) The Scottish Ministers may by regulations modify sub-paragraphs (1) and (4) of paragraph 5 so as to substitute a different deadline for the deadline for the time being specified there.

SCHEDULE 2

(introduced by section 41)

MINOR AND CONSEQUENTIAL MODIFICATIONS

PART 1

TOBACCO PRODUCTS ETC.

Children and Young Persons (Scotland) Act 1937 (c.37)

- 1 Section 18 of the Children and Young Persons (Scotland) Act 1937 is repealed.

Children and Young Persons (Protection from Tobacco) Act 1991 (c.23)

- 2 The Children and Young Persons (Protection from Tobacco) Act 1991 is amended as follows—
- (a) sections 2 and 4 are repealed,
 - (b) in section 6—
 - (i) in subsection (1)(a), for the word from “18” to “4” substitute “3”,
 - (ii) in subsection (2), for “provisions” substitute “provision”,
 - (iii) in subsection (2)(a), for “those provisions” substitute “that provision”,

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- (iv) in subsection (2)(b), for “those provisions” substitute “that provision”,
- (v) subsection (2)(c) is repealed,
- (c) in section 8—
 - (i) in subsection (3), the words “or 2” are repealed,
 - (ii) in subsection (4), the words “or 2” are repealed,
 - (iii) in subsection (5), in the definition of “the relevant provision”, paragraph (b) is repealed.

Tobacco Advertising and Promotion Act 2002 (c.36)

- 3 In section 6(1)(a) of the [Tobacco Advertising and Promotion Act 2002 \(c.36\)](#), the words “, or fixed to the outside of the premises of,” are repealed.
- 4 In section 8 of that Act—
 - (a) in subsection (1), the words “in a place or” are repealed,
 - (b) subsection (3) is repealed.

Smoking, Health and Social Care (Scotland) Act 2005 (asp 13)

- 5 Section 9 of the Smoking, Health and Social Care (Scotland) Act 2005 is repealed.

PART 2

PRIMARY MEDICAL SERVICES

National Health Service (Scotland) Act 1978 (c.29)

- 6 (1) Section 17D of the National Health Service (Scotland) Act 1978 is amended as follows—
 - (a) in subsection (1), after “section 17C” insert “under which personal dental services are provided”,
 - (b) in subsection (1)(b), for “in the case of an agreement under which primary medical services are provided” substitute “a company which is limited by shares all of which are legally and beneficially owned by persons falling within the following sub-paragraphs and paragraphs (c) to (d)”,
 - (c) in subsection (1)(c)—
 - (i) the words “in the case of an agreement under which personal dental services are provided” are repealed, and
 - (ii) sub-paragraphs (i) and (ii) become paragraphs (c) and (ca) respectively of subsection (1),
 - (d) in subsection (1)(d)—
 - (i) after “section 17C employee,” insert “or”,
 - (ii) the words “or (in the case of an agreement under which primary medical services are provided) an Article 15B employee” are repealed,
 - (e) subsections (1A) and (1B) are repealed,
 - (f) in subsection (2), in the definition of “qualifying body”—

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- (i) paragraph (a) and the words “and also” immediately following it are repealed,
 - (ii) in paragraph (b), the words “in the case of an agreement under which person dental services are provided,” are repealed.
- (2) In the section title of section 17D of that Act, for “Persons” substitute “Personal dental services: persons”.

Primary Medical Services (Scotland) Act 2004 (asp 1)

- 7 In section 2(3) of the Primary Medical Services (Scotland) Act 2004, paragraph (c) is repealed.