

## SCHEDULES

### SCHEDULE 2

#### AIR QUALITY: SUPPLEMENTAL PROVISIONS

##### *Fixed penalty offences*

5.—(1) Without prejudice to the generality of sub-paragraph (o) of paragraph (2) of Article 15, regulations may, in particular, make provision—

- (a) for the qualifications, appointment or authorisation of persons who are to issue fixed penalty notices;
- (b) for the offences in connection with which, the cases or circumstances in which, the time or period at or within which, or the manner in which fixed penalty notices may be issued;
- (c) prohibiting the institution, before the expiration of the period for paying the fixed penalty, of proceedings against a person for an offence in connection with which a fixed penalty notice has been issued;
- (d) prohibiting the conviction of a person for an offence in connection with which a fixed penalty notice has been issued if the fixed penalty is paid before the expiration of the period for paying it;
- (e) entitling, in prescribed cases, a person to whom a fixed penalty notice is issued to give, within a prescribed period, notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;
- (f) for the amount of the fixed penalty to be increased by a prescribed amount in any case where the person liable to pay the fixed penalty fails to pay it before the expiration of the period for paying it, without having given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;
- (g) for or in connection with the recovery of an unpaid fixed penalty as a fine or as a civil debt or as if it were a sum payable under a county court order;
- (h) for or in connection with enforcement in respect of an unpaid fixed penalty by prescribed persons;
- (j) for a fixed penalty notice, and any prescribed proceedings or other prescribed steps taken by reference to the notice, to be rendered void in prescribed cases where a person makes a prescribed statutory declaration, and for the consequences of any notice, proceedings or other steps being so rendered void (including extension of any time limit for instituting criminal proceedings);
- (k) for or in connection with the extension, in prescribed cases or circumstances, by a prescribed person of the period for paying a fixed penalty;
- (l) for or in connection with the withdrawal, in prescribed circumstances, of a fixed penalty notice, including—
  - (i) repayment of any amount paid by way of fixed penalty in pursuance of a fixed penalty notice which is withdrawn; and
  - (ii) prohibition of the institution or continuation of proceedings for the offence in connection with which the withdrawn notice was issued;

**Changes to legislation:** *There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, Paragraph 5. (See end of Document for details)*

- (m) for or in connection with the disposition of sums received by way of fixed penalty
  - (n) for a certificate purporting to be signed by or on behalf of a prescribed person and stating either—
    - (i) that payment of a fixed penalty was, or (as the case may be) was not, received on or before a date specified in the certificate, or
    - (ii) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,to be received as evidence of the matters so stated and to be treated, without further proof, as being so signed unless the contrary is shown;
  - (o) requiring a fixed penalty notice to give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and to state—
    - (i) the monetary amount of the fixed penalty which may be paid;
    - (ii) the person to whom, and the address at which, the fixed penalty may be paid and any correspondence relating to the fixed penalty notice may be sent;
    - (iii) the method or methods by which payment of the fixed penalty may be made;
    - (iv) the period for paying the fixed penalty;
    - (v) the consequences of the fixed penalty not being paid before the expiration of that period;
  - (p) similar to any provision made by Article 84 of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (statements by constables in fixed penalty cases);
  - (q) for presuming, in any proceedings, that any document of a prescribed description purporting to have been signed by a person to whom a fixed penalty notice has been issued has been signed by that person;
  - (r) requiring or authorising a fixed penalty notice to contain prescribed information relating to, or for the purpose of facilitating, the administration of the fixed penalty system;
  - (s) with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
    - (i) the methods by which,
    - (ii) the officers, servants or agents by, to or on whom, and
    - (iii) the places at which,fixed penalty notices may be given by, or served on behalf of, a prescribed person;
  - (t) prescribing the method or methods by which fixed penalties may be paid;
  - (u) for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given;
  - (v) for a fixed penalty notice to be treated for prescribed purposes as if it were a complaint or summons or any other document of a prescribed description
- (2) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or
  - (b) except if it is committed in such circumstances or manner as may be prescribed.
- (3) Regulations may make provision for such exceptions, limitations and conditions as the Department considers necessary or expedient.
- (4) In this paragraph—

“fixed penalty” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);

“fixed penalty notice” means a notice offering a person an opportunity to discharge any liability to conviction for a fixed penalty offence by payment of a penalty of a prescribed amount;

“fixed penalty offence” means, subject to sub-paragraph (2), any offence under the pollution control statutory provisions which is for the time being prescribed as a fixed penalty offence;

“the fixed penalty system” means the system implementing regulations;

“the period for payment”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;

“regulations” means regulations under sub-paragraph (o) of paragraph (2) of Article 15.

**Changes to legislation:**

There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, Paragraph 5.