



## 2011 CHAPTER 25

### Part 5

#### Enforcement

##### *Fixed penalties*

#### **Fixed penalty notice where enforcement notice not complied with**

**153.**—(1) Where on any occasion an authorised officer of a council has reason to believe that a person has committed an offence under section 147 in the district of that council, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the council.

(2) Where a person is given a notice under this section in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of the period of 28 days following the date of the notice; and
- (b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period.

(3) A notice under this section must specify—

- (a) the step specified, under subsection (3) of section 140, in the enforcement notice which has not been taken; or
- (b) the activity so specified which has not ceased.

(4) A notice under this section must also state—

- (a) the period during which, by virtue of subsection (2), proceedings will not be taken for the offence;

*Status: Point in time view as at 13/02/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Cross Heading: Fixed penalties. (See end of Document for details)*

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(5) The council must not serve more than one notice under this section in relation to a particular step or activity.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (4) (c) at the address so mentioned.

(7) Where a letter is sent in accordance with subsection (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this section shall be such as the Department may prescribe.

(9) The fixed penalty payable to the council under this section is such amount as may be prescribed.

(10) But if payment is made within the first 14 days of the period mentioned in subsection (2) the amount payable is reduced by 25%.

(11) In any proceedings a certificate which—

(a) purports to be signed on behalf of the clerk of the council, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(12) In this section “authorised officer”, in relation to a council, means an employee of a council who is authorised in writing by the council for the purpose of giving notices under this section.

#### **Commencement Information**

**II** S. 153 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, Sch. 1

#### **Fixed penalty notice where breach of condition notice not complied with**

**154.—**(1) Where on any occasion an authorised officer of a council has reason to believe that a person has committed an offence under subsection (9) of section 152 in the district of that council, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the council.

(2) Where a person is given a notice under this section in respect of an offence—

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- (a) no proceedings may be instituted for that offence before the expiration of the period of 28 days following the date of the notice; and
  - (b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period.
- (3) A notice under this section must—
- (a) specify the step specified under subsection (5) of section 152 in the breach of condition notice which has not been taken; or
  - (b) the activity so specified which has not ceased.
- (4) A notice under this section must also state—
- (a) the period during which, by virtue of subsection (2), proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty; and
  - (c) the person to whom and the address at which the fixed penalty may be paid.
- (5) The council must not serve more than one notice under this section in relation to a particular step or activity.
- (6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (4) (c) at the address so mentioned.
- (7) Where a letter is sent in accordance with subsection (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (8) The form of a notice under this section shall be such as the Department may prescribe.
- (9) The fixed penalty payable to the council under this section is such amount as may be prescribed.
- (10) But if payment is made within the first 14 days of the period mentioned in subsection (2) the amount payable is reduced by 25%.
- (11) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the clerk of the council, and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.
- (12) In this section “authorised officer”, in relation to a council, means an employee of a council who is authorised in writing by the council for the purpose of giving notices under this section.

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#### Commencement Information

**I2** S. 154 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, Sch. 1

#### Use of fixed penalty receipts

**155.**—(1) This section applies in relation to amounts paid to a council in pursuance of notices under section 153 or 154 (its “fixed penalty receipts”).

(2) A council may use its fixed penalty receipts only for the purposes of—

- (a) its functions under this Part;
- (b) such other of its functions as may be specified in regulations made by the Department.

(3) Regulations under subsection (2)(b) may, in particular, have the effect that a council may use its fixed penalty receipts for the purposes of any of its functions.

(4) A council must supply the Department with such information relating to its use of its fixed penalty receipts as the Department may require.

(5) The Department may by regulations—

- (a) make provision for what a council is to do with its fixed penalty receipts—
  - (i) pending their being used for the purposes of functions of the council referred to in subsection (2);
  - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
- (b) make provision for accounting arrangements in respect of a council's fixed penalty receipts.

(6) The provision that may be made under subsection (5)(a)(ii) includes, in particular, provision for the payment of sums to a person (including the Department) other than the council.

(7) Before making regulations under this section, the Department shall consult—

- (a) councils;
- (b) such other persons as the Department thinks fit.

#### Commencement Information

**I3** S. 155 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, Sch. 1

**Status:**

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**Changes to legislation:**

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