

Changes to legislation: There are currently no known outstanding effects for the Traffic Management Act 2004, SCHEDULE 6. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 6

Section 64

SCHEDULE 22B TO THE HIGHWAYS ACT 1980

“SCHEDULE 22B

Section 314A

FIXED PENALTIES FOR CERTAIN OFFENCES UNDER PART 9

Power to give fixed penalty notices

- 1 (1) An authorised officer of a highway authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.
- (2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

Power to give fixed penalty notices

- 2 A fixed penalty notice for an offence may not be given after such time relating to the offence as the Secretary of State may by regulations prescribe.

Contents of fixed penalty notice

- 3 (1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.
- (2) A fixed penalty notice must also state—
 - (a) the amount of the penalty and the period within which it may be paid;
 - (b) the discounted amount and the period within which it may be paid;
 - (c) the person to whom and the address at which payment may be made;
 - (d) the method or methods by which payment may be made;
 - (e) the person to whom and the address at which any representations relating to the notice may be addressed;
 - (f) the consequences of not making any payment within the period for payment.
- (3) The person specified under sub-paragraph (2)(c) must be the highway authority or a person acting on their behalf.

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The amount of the penalty and the period for payment

- 4 (1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.
- (2) The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.
- (3) The highway authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

The discounted amount

- 5 (1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.
- (2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.
- (3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.
- (4) In sub-paragraph (3) “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in the locality in which the highway in question is situated.

Effect of notice and payment of penalty

- 6 (1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.
- (2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.
- (3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the highway authority after that time.
- (4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.
- (5) In proceedings for the offence a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the highway authority; and
 - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,
- is evidence of the facts stated.

Power to withdraw notices

- 7 (1) If the highway authority consider that a fixed penalty notice which has been given ought not to have been given, they may give to the person on whom it was given a notice withdrawing the fixed penalty notice.

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- (2) Where a notice under sub-paragraph (1) is given—
 - (a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and
 - (b) no proceedings may be commenced or continued against that person for the offence in question.
- (3) The highway authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

General and supplementary

- 8 (1) In this Schedule “prescribed” means prescribed in regulations made by the Secretary of State.
- (2) The Secretary of State may, with the consent of the Treasury, make regulations about—
 - (a) the application by highway authorities of fixed penalties paid under this Schedule;
 - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to penalties paid under this Schedule.
- (3) The Secretary of State may by regulations—
 - (a) prescribe circumstances in which fixed penalty notices may not be given;
 - (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
 - (c) prescribe the method or methods by which penalties may be paid.
- (4) Regulations under this Schedule may—
 - (a) make different provision (including provision prescribing the amount of the penalty or the discounted amount) for different purposes or areas;
 - (b) make consequential or transitional provision.

General and supplementary

- 9 Section 323(1)(b) (reckoning of periods of 8 days or less) does not apply for the purposes of this Schedule.”

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