

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Public Health (Wales) Act 2017, SCHEDULE 1 is up to date with all changes known to be in force on or before 29 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

SCHEDULE 1

(introduced by sections 27 and 49)

FIXED PENALTIES

Interpretation

1 In this Schedule—

“authorised officer” (“*swyddog awdurdodedig*”)—

- (a) in relation to a fixed penalty notice given under section 27, means an authorised officer within the meaning given by section 18(5), and
- (b) in relation to a fixed penalty notice given under section 49, means an authorised officer within the meaning given by section 39;

“issuing authority” (“*awdurdod dyroddi*”)—

- (a) in relation to a fixed penalty notice given under section 27, means an enforcement authority authorised by virtue of section 18, and
- (b) in relation to a fixed penalty notice given under section 49, means a local authority.

Contents of fixed penalty notice

2 A fixed penalty notice must—

- (a) state the alleged offence, and
- (b) give particulars of the circumstances alleged to constitute it.

3 A fixed penalty notice must also state—

- (a) the name and address of the issuing authority on whose behalf the notice is given;
- (b) the amount of the penalty and the period for its payment;
- (c) the discounted amount and the period for its payment;
- (d) the effect of paying the penalty or the discounted amount before the end of the period mentioned in paragraph (b) or (c);
- (e) the consequences of not paying the penalty or the discounted amount before the end of the period mentioned in paragraph (b) or (c);
- (f) the person to whom, and the address at which, payment may be made;
- (g) the method by which payment may be made;
- (h) the person to whom and the address at which any representations relating to the notice may be made.

4 A fixed penalty notice must also—

- (a) inform the person to whom it is given of that person's right to ask to be tried for the alleged offence, and
- (b) explain how that right may be exercised.

5 Regulations may make further provision as to the content and form of a fixed penalty notice.

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Amount of penalty and period for payment

- 6 The penalty is such amount as is specified in regulations.
- 7 The period for payment of the penalty is the period of 29 days beginning with the day on which the fixed penalty notice is given.

Discounted amount and period for payment

- 8 (1) A discounted amount is payable, instead of the amount specified in regulations under paragraph 6, if payment is made before the end of the period for payment of the discounted amount.
- (2) That period is the period of 15 days beginning with the day on which the notice is given, unless the 15th day is not a working day.
- (3) If the 15th day is not a working day, that period is the period beginning with the day on which the notice is given and ending with the expiry of the first working day following the 15th day.
- (4) In this paragraph, “working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c.80).
- 9 The discounted amount is such amount as is specified in regulations.

Effect of notice and payment

- 10 (1) Proceedings for the offence in respect of which a fixed penalty notice was given may not be brought before the end of the period for payment of the penalty.
- (2) Sub-paragraph (1) does not apply if the person to whom the notice was given has asked in accordance with paragraphs 15 and 16 to be tried for the alleged offence.
- 11 If the penalty is paid in accordance with the penalty notice before the end of the period mentioned in paragraph 10(1), no proceedings for the offence may be brought, and paragraph 15 does not apply.
- 12 If the discounted amount is paid in accordance with the penalty notice before the end of the period for payment of the discounted amount, no proceedings for the offence may be brought, and paragraph 15 does not apply.
- 13 If proceedings have been brought pursuant to a request under paragraph 15, but then the penalty or discounted amount is paid as mentioned in paragraph 11 or 12, those proceedings must not be continued.
- 14 In any proceedings, a certificate documenting payment of a penalty or discounted amount is evidence of the facts which it states if it—
- (a) purports to be signed by or on behalf of the person responsible for the financial affairs of the issuing authority on behalf of which the authorised officer who gave the penalty notice was acting, and
 - (b) states that payment of the fixed penalty or discounted amount in pursuance of the notice was or was not received by a date specified in the certificate.

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Trial

- 15 If the person to whom a penalty notice has been given asks to be tried for the alleged offence, proceedings may be brought against that person.
- 16 Any request to be tried must be made—
- (a) by notice given to the issuing authority in question before the end of the period for payment of the penalty;
 - (b) in the manner specified in the fixed penalty notice.

Withdrawal of notices

- 17 (1) This paragraph applies if an issuing authority considers that a fixed penalty notice which an authorised officer acting on its behalf has given to a person (“P”) ought not to have been given.
- (2) The issuing authority may give notice to P withdrawing the fixed penalty notice.
- (3) If it does so—
- (a) it must repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice, and
 - (b) no proceedings may be brought or continued against P for the offence in question.

Fixed penalty receipts

- 18 (1) An enforcement authority which is a local authority may use amounts received by it in pursuance of notices under section 27 only for the purpose of its functions relating to the enforcement of provisions of Chapter 1 of this Part and regulations made under it.
- (2) A local authority may use amounts received by it in pursuance of notices under section 49 only for the purpose of its functions relating to the enforcement of provisions of Chapter 2 of this Part and regulations made under it.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/949, art. 3 by [S.I. 2017/967 art. 2](#)