Issue of fixed penalty notices

(1) Where a fixed penalty officer has reasonable grounds for suspecting that a person has committed a relevant offence, the officer may issue the person with a fixed penalty notice.

(2) In subsection (1), a relevant offence—

(a) is an offence under the Sea Fisheries enactments in respect of which a person mentioned in paragraph (a) of subsection (2A) has functions,

(b) is an offence under the marine protection and nature conservation legislation in respect of which a person mentioned in paragraph (b) of that subsection has functions,

(c) is an offence under—

(i) Part 4 of the Marine (Scotland) Act 2010 (marine licensing), or
(ii) section 5(5) of the Aquaculture and Fisheries (Scotland) Act 2013 (control and monitoring of operation of wellboats),

(d) in relation to a person mentioned in any of paragraphs (c) to (f) of that subsection, is an offence in respect of which the person has functions.

(2A) The persons referred to in subsection (2) are—

(a) a British sea-fishery officer,

(b) a marine enforcement officer within the meaning of section 157(1) of the Marine (Scotland) Act 2010,

(c) an inspector within the meaning of section 12 of this Act,

(d) an inspector within the meaning of regulation 3(1) of the Aquatic Animal Health (Scotland) Regulations 2009 (S.S.I. 2009/85),
(e) an inspector within the meaning of regulation 1(2) of the Animals and Animal Products (Import and Export) Regulations 2007 (S.S.I. 2007/194) who is appointed as mentioned in that regulation by the Scottish Ministers for purposes relating to fish farming or shellfish farming,

(f) an authorised officer within the meaning of regulation 2(1) of the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 (S.I. 1997/1729) appointed (whether solely or jointly) by the Scottish Ministers to act in matters arising under those Regulations relating to fish farming or shellfish farming or the products of either such type of farming.

(2B) The Scottish Ministers may by order modify—
(a) subsection (2) so as to amend the definition of “relevant offence”,
(b) subsection (2A) so as to—
(i) add or remove a description of a person to or from those for the time being listed in that subsection,
(ii) vary a description of a person for the time being listed in that subsection.

(2C) In subsection (2A)(e) and (f), “fish farming” and “shellfish farming” have the same meanings as in section 12.

(2D) Despite subsection (1), a fixed penalty officer may not issue a notice in respect of a relevant offence that involves—
(a) assault on a person mentioned in subsection (2A),
(b) obstructing such a person in the exercise of the person's powers,
(c) failure to comply with a requirement imposed, or instruction given, by such a person.

(3) In this Part—
“appropriate fixed penalty” has the meaning given in section 27(2);
“British sea-fishery officer” means any person who by virtue of section 7 of the Sea Fisheries Act 1968 (c. 77) is a British sea-fishery officer;
["f fifth fixed penalty officer “ means a person appointed as such an officer by the Scottish Ministers; ]
“period for paying” has the meaning given in section 26(4);
“notice” means a fixed penalty notice issued under subsection (1);
“Sea Fisheries enactments” means any enactments for the time being in force relating to sea fish or sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout.
["f the marine protection and nature conservation legislation “ has the meaning given in section 132(2) of the Marine (Scotland) Act 2010; ]

Annotations:

Amendments (Textual)
F1 Words in s. 25(1) substituted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), ss. 60(2)(a), 66(2) (with s. 65); S.S.I. 2013/249, art. 2
F2 Words in s. 25(2) repealed (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), ss. 60(2)(b)(i), 66(2) (with s. 65); S.S.I. 2013/249, art. 2
Changes to legislation: There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2007, Section 25. (See end of Document for details)

F3  S. 25(2)(a)-(d) substituted (16.9.2013) for s. 25(2)(a)(b) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), ss. 60(2)(b)(ii), 66(2) (with s. 65); S.S.I. 2013/249, art. 2
F4  S. 25(2A)-(2D) inserted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), ss. 60(2)(c), 66(2) (with s. 65); S.S.I. 2013/249, art. 2
F5  Words in s. 25(3) inserted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), ss. 60(2)(d)(i), 66(2) (with s. 65); S.S.I. 2013/249, art. 2
F6  Words in s. 25(3) inserted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), ss. 60(2)(d)(ii), 66(2) (with s. 65); S.S.I. 2013/249, art. 2

Commencement Information
I1  S. 25 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1)
**Changes to legislation:**
There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2007, Section 25.