

**Changes to legislation:** There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010, SCHEDULE 1. (See end of Document for details)

SCHEDULE 1  
(introduced by section 27)

FIXED PENALTIES

*Preliminary*

- 1 In this schedule, unless the context requires otherwise—
- “notice” means a fixed penalty notice given under section 27(1),
  - “the offence” means the offence to which the notice relates,
  - “the council” means the council in whose area the offence was alleged to have been committed.

**Annotations:**

**Commencement Information**

- I1** Sch. 1 para. 1 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

*Content of fixed penalty notice*

- 2 (1) A notice must give reasonable particulars of the circumstances alleged to constitute the offence.
- (2) A notice must also contain the following information—
- (a) the amount of the fixed penalty,
  - (b) the payment deadline,
  - (c) the discounted amount and the discounted payment deadline,
  - (d) the name of the council (or the person acting on the council's behalf) to which payment should be made,
  - (e) the address at which payment should be made,
  - (f) the method by which payment should be made.
- (3) A notice must state the following—
- (a) any liability to conviction of the offence is discharged if the person makes payment of—
    - (i) the fixed penalty before the payment deadline, or
    - (ii) the discounted amount before the discounted payment deadline,
  - (b) the payment of a fixed penalty is not a conviction nor may it be recorded as such,
  - (c) no proceedings may be commenced against the person in respect of the offence unless the payment deadline has passed and the fixed penalty has not been paid.

**Annotations:**

**Commencement Information**

- I2** Sch. 1 para. 2 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

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*Period in which notice can be given*

- 3 A notice may not be given after such time relating to the offence as may be prescribed.

**Annotations:**

**Commencement Information**

- I3** [Sch. 1 para. 3](#) in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by [S.S.I. 2010/345](#), [art. 2](#), [Sch.](#)

*Amount of penalty*

- 4 (1) The—
- (a) amount of the fixed penalty, and
  - (b) discounted amount,
- are such amounts as may be prescribed.
- (2) Regulations under sub-paragraph (1) may provide for the amount to be different depending on whether, during a prescribed period, the offender has been—
- (a) issued with a fixed penalty notice or notices in respect of any offence or offences of a prescribed description, or
  - (b) convicted of any offence or offences of a prescribed description.

**Annotations:**

**Commencement Information**

- I4** [Sch. 1 para. 4](#) in force at 24.10.2010 for specified purposes and 1.4.2011 in so far as not already in force by [S.S.I. 2010/345](#), [art. 2](#), [Sch.](#)

*Deadlines for payment*

- 5 (1) The payment deadline is the first working day at least 28 days after the day on which the notice is given.
- (2) But the council may extend the payment deadline in any particular case after the notice is given if it considers it appropriate to do so.
- (3) On extending the payment deadline under sub-paragraph (2), the council must notify the recipient of the fixed penalty notice.
- (4) The discounted payment deadline is the first working day at least 14 days after the day on which notice is given.

**Annotations:**

**Commencement Information**

- I5** [Sch. 1 para. 5](#) in force at 1.4.2011 by [S.S.I. 2010/345](#), [art. 2](#), [Sch.](#)

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*Method of payment*

- 6 The fixed penalty (and the discounted payment amount) is payable—
- (a) to the council or the person acting on its behalf specified in the notice,
  - (b) at the address specified in the notice,
  - (c) by the method specified in the notice.

**Annotations:**

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

*Restriction on proceedings and effect of payment*

- 7 (1) The earliest date that proceedings for the offence may be commenced is the day after the payment deadline.
- (2) But no such proceedings may be commenced against a person if—
- (a) the person makes payment of the discounted amount on or before the discounted payment deadline, or
  - (b) the person makes payment of the fixed penalty on or before the payment deadline.
- (3) In proceedings for the offence, a certificate which—
- (a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the council, and
  - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,
- is sufficient evidence of the facts stated.

**Annotations:**

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

*Withdrawal of fixed penalty notice*

- 8 (1) A recipient of a notice may make representations to the council as to why the notice ought not to have been given.
- (2) If, having considered any representations made under sub-paragraph (1), the council considers that a fixed penalty notice ought not to have been given, it may give to the person a notice withdrawing the fixed penalty notice.
- (3) Where a notice under sub-paragraph (2) is given—
- (a) the council must repay any amount which has been paid in pursuance of the fixed penalty notice, and
  - (b) no proceedings are to be commenced against the person for the offence.

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**Annotations:**

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

*Effect of prosecution on fixed penalty notice*

- 9 Where proceedings for an offence in respect of which a notice has been given are commenced, the notice is to be treated as withdrawn.

**Annotations:**

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

*General and supplemental*

- 10 The Scottish Ministers may make regulations about—
- (a) the application by councils of payments received under this schedule,
  - (b) the keeping of accounts, and the preparation and publication of statements of account, in relation to payments received under this schedule.

**Annotations:**

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

- 11 (1) The Scottish Ministers may prescribe—
- (a) the form of notices,
  - (b) the circumstances in which notices may not be given, and
  - (c) the method or methods by which fixed penalties may be paid.
- (2) The Scottish Ministers may by regulations modify sub-paragraphs (1) and (4) of paragraph 5 so as to substitute a different deadline for the deadline for the time being specified there.

**Annotations:**

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.4.2011 by S.S.I. 2010/345, art. 2, Sch.

**Changes to legislation:**

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