



Food (Scotland) Act 2015

2015 asp 1

PART 3

ADMINISTRATIVE SANCTIONS

Fixed penalty notices

36 Fixed penalty notices

- (1) An authorised officer of the appropriate enforcement authority may issue to a person a fixed penalty notice in relation to a relevant offence.
- (2) In this Part, “fixed penalty notice” means a notice offering the person to whom it is issued the opportunity to discharge liability to conviction for the relevant offence in relation to which the notice is issued by paying to the appropriate enforcement authority a specified sum of money.
- (3) The sum of money is to be treated as paid only if it is paid by such method of payment as the appropriate enforcement authority determines to be acceptable.
- (4) An authorised officer may issue a fixed penalty notice to a person in relation to a relevant offence only if the officer is satisfied to the specified standard that the person has committed the offence.
- (5) A sum specified for the purposes of subsection (2) must not exceed level 4 on the standard scale.
- (6) In this section, “standard scale” has the meaning given in section 225(1) of the Criminal Procedure (Scotland) Act 1995.

37 Content and form of a fixed penalty notice

- (1) A fixed penalty notice must include the following information—
 - (a) a statement of the grounds for issuing the notice, including a statement of—
 - (i) the relevant offence that is alleged to have been committed, and
 - (ii) the act or omission giving rise to the offence,

Status: This is the original version (as it was originally enacted).

- (b) the amount of the sum that is to be paid to the appropriate enforcement authority,
 - (c) the date of issue of the notice,
 - (d) an explanation of how payment is to be made to the appropriate enforcement authority,
 - (e) the period of time within which payment is to be made,
 - (f) information about any early payment discounts,
 - (g) information about the person to whom, and as to how and by when, any representations about the notice may be made,
 - (h) an explanation of the effect of making payment in accordance with the notice and of the consequences of failure to make payment in accordance with the notice.
- (2) The reference in subsection (1)(e) to the period of time within which payment is to be made is a reference to such period, beginning with the date on which the notice was issued, as may be specified.
- (3) The Scottish Ministers may by regulations make further provision about the form and content of fixed penalty notices including, in particular—
- (a) provision about the form and content of any of the information required to be included under subsection (1),
 - (b) provision about other information that is to be included in addition to that required under subsection (1).

38 Effect of a fixed penalty notice on criminal proceedings

- (1) Where a fixed penalty notice is issued to a person in relation to a relevant offence—
- (a) no criminal proceedings for the relevant offence may be brought against the person in respect of the relevant act or omission before the end of the payment period, and
 - (b) if the person makes payment in accordance with the notice, the person may not at any time be convicted of the relevant offence in respect of the relevant act or omission.
- (2) In subsection (1), “the relevant act or omission” means the act or omission—
- (a) constituting the relevant offence, and
 - (b) by reason of which the fixed penalty notice is issued.

39 Restrictions on issuing of a fixed penalty notice

- (1) A fixed penalty notice may not be issued to a person in relation to a relevant offence arising out of a particular act or omission if—
- (a) a fixed penalty notice has previously been issued to the person (and not withdrawn) in relation to the same relevant offence arising out of the same act or omission, or
 - (b) criminal proceedings—
 - (i) have been brought against the person for the same relevant offence arising out of the same act or omission, or
 - (ii) cannot, because of the expiry of relevant time limits for prosecution, any longer competently be brought against the person for the same relevant offence arising out of the same act or omission.

- (2) A fixed penalty notice issued in contravention of subsection (1) is of no effect (and, accordingly, the appropriate enforcement authority must repay any amount paid in respect of the notice).

40 Withdrawal of a fixed penalty notice

- (1) An authorised officer of the appropriate enforcement authority may withdraw a fixed penalty notice issued by an authorised officer of the authority.
- (2) A fixed penalty notice—
- (a) may be withdrawn at any time before payment is made in accordance with the notice, and
 - (b) is withdrawn by the issuing of a notice in writing to that effect to the person to whom the fixed penalty notice was issued.
- (3) Where a fixed penalty notice is withdrawn, it is to be treated as if it had never been issued.

41 Income from fixed penalties to be paid to the Scottish Ministers

- (1) Sums received by enforcement authorities in response to fixed penalty notices are to be paid over to the Scottish Ministers.
- (2) Payments by an enforcement authority under subsection (1) are to be made at such times and by such methods as the Scottish Ministers may determine.