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*Changes to legislation: There are currently no known outstanding effects for the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016, Cross Heading: Judicial determination of enforcement of fixed penalty. (See end of Document for details)*

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SCHEDULE  
FIXED PENALTY FOR OFFENCE UNDER SECTION 1

*Judicial determination of enforcement of fixed penalty*

- 10 (1) A person against whom a fixed penalty bears to be enforceable under paragraph 9 may apply to the sheriff for a declaration that the fixed penalty is not enforceable on the ground that—
- (a) the fixed penalty was paid before the expiry of the period for paying, or
  - (b) the person has made a request for a hearing in accordance with paragraph 6 and no hearing has been held within a reasonable time after the request.
- (2) On an application under sub-paragraph (1), the sheriff may declare—
- (a) that the person has or, as the case may be, has not paid the fixed penalty within the period for payment of the penalty,
  - (b) that the person has or, as the case may be, has not requested a hearing in accordance with paragraph 6,
  - (c) that, where such a request has been made, a hearing has or, as the case may be, has not been held within a reasonable time after the request, and accordingly, that the fixed penalty is or, as the case may be, is not enforceable.

**Commencement Information**

**11** Sch. para. 10 in force at 5.12.2016 by S.S.I. 2016/259, reg. 2

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