

SCHEDULES

SCHEDULE 1

Article 10

FIXED PENALTIES

Contents of penalty notice

1. A penalty notice must—
 - (a) state the alleged offence, and
 - (b) give such particulars of the circumstances alleged to constitute it as are necessary for giving reasonable information about it.
- 2.—(1) A penalty notice must also state—
 - (a) the amount of the penalty and the period for its payment,
 - (b) the discounted amount and the period for its payment,
 - (c) the consequences of not paying the penalty or the discounted amount before the end of the period mentioned in head (a) or (b),
 - (d) the person to whom and the address at which payment may be made,
 - (e) by what method payment may be made,
 - (f) the person to whom and the address at which any representations relating to the notice may be made.

(2) The person mentioned in sub-paragraph (1)(d) and (f) must be the [^{F1}district council or other enforcement authority] on whose behalf the authorised officer was acting when he gave the notice.

Textual Amendments

- F1** Words in Sch. 1 para. 2(2) substituted (1.2.2022) by The Smoke-Free (Private Vehicles) Regulations (Northern Ireland) 2021 (S.R. 2021/328), regs. 1(1), 6(2)

3. A penalty notice must also—
 - (a) inform the person to whom it is given of his right to be tried for the alleged offence, and
 - (b) explain how that right may be exercised.
4. A penalty notice must be in a form specified in regulations.

Amount of penalty and period for payment

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

Discounted amount and period for payment

- 7.—(1) A discounted amount is payable instead of the amount specified in regulations under paragraph 5 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 immediately after the first working day following the 15th day.

(4) In this paragraph “working day” means any day which is not a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971 (c. 80).

8. The discounted amount is such amount as may be specified in regulations.

Effect of notice and payment

9.—(1) Proceedings for the offence in respect of which a 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 14 and 15 to be tried for the alleged offence.

10. If the penalty is paid in accordance with the penalty notice before the end of the period for payment of the penalty, no proceedings for the offence may be brought and paragraph 14 does not apply.

11. 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 14 does not apply.

12. If proceedings have been brought pursuant to a request under paragraph 14, but then the penalty or discounted amount is paid as mentioned in paragraph 10 or 11 those proceedings may not be continued.

13. In any proceedings, a certificate 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 [^{F2}district council or other enforcement authority] on whose behalf the authorised officer who gave a penalty notice was acting, and
- (b) states that payment of the penalty or discounted amount in pursuance of the notice was or was not received by a date specified in the certificate.

Textual Amendments

F2 Words in [Sch. 1 para. 13\(a\)](#) substituted (1.2.2022) by [The Smoke-Free \(Private Vehicles\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/328\)](#), regs. 1(1), **6(2)**

Trial

14. If the person to whom a penalty notice has been given asks to be tried for the alleged offence, proceedings may be brought against him.

15. Any request to be tried must be made—

- (a) by notice given to the [^{F3}district council or other enforcement authority] in question before the end of the period for payment of the penalty,
- (b) in the manner specified in the penalty notice.

Textual Amendments

- F3** Words in Sch. 1 para. 15(a) substituted (1.2.2022) by [The Smoke-Free \(Private Vehicles\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/328\)](#), regs. 1(1), **6(2)**

Withdrawal of notices

16.—(1) This paragraph applies if a [^{F4}district council or other enforcement authority] considers that a penalty notice which an authorised officer acting on its behalf has given to a person ought not to have been given.

(2) The [^{F5}district council or other enforcement authority] may give notice to that person withdrawing the penalty notice.

(3) If it does so—

- (a) it must repay to that person any amount which has been paid by way of penalty in pursuance of the penalty notice, and
- (b) no proceedings may be brought or continued against that person for the offence in question.

(4) The [^{F6}council or other enforcement authority] must consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

Textual Amendments

- F4** Words in Sch. 1 para. 16(1) substituted (1.2.2022) by [The Smoke-Free \(Private Vehicles\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/328\)](#), regs. 1(1), **6(2)**
- F5** Words in Sch. 1 para. 16(2) substituted (1.2.2022) by [The Smoke-Free \(Private Vehicles\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/328\)](#), regs. 1(1), **6(2)**
- F6** Words in Sch. 1 para. 16(4) substituted (1.2.2022) by [The Smoke-Free \(Private Vehicles\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/328\)](#), regs. 1(1), **6(3)**

Use of fixed penalty receipts

17.—(1) A district council may use its fixed penalty receipts only for the purposes of—

- (a) its functions under this Order; or
- (b) such other functions (if any) as are specified in regulations made by the Department.

(2) A council shall supply the Department with such information relating to its use of its fixed penalty receipts as the Department may require.

(3) The Department may by regulations—

- (a) make provision for what a council is to do with its fixed penalty receipts—
 - (i) pending their being used for the purposes mentioned in sub-paragraph (1);
 - (ii) if they are not so used before such time after their receipt as may be specified in the regulations;
- (b) make provision for accounting arrangements in respect of a council's fixed penalty receipts.

(4) The provision that may be made under sub-paragraph (3)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Department) other than the council.

Changes to legislation: There are currently no known outstanding effects for the The Smoking (Northern Ireland) Order 2006, SCHEDULE 1. (See end of Document for details)

(5) Before making regulations under this paragraph the Department shall consult district councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as the Department considers appropriate.

(6) In this Article references to a district council's fixed penalty receipts are to the sums received by the council in respect of fixed penalties under this Schedule.

[^{F7}Power to amend or modify Schedule

Textual Amendments

F7 Sch. 1 para. 18 and preceding cross-heading added (1.6.2017 for specified purposes) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\)](#), **ss. 5(7), 20(3)**; S.R. 2017/91, art. 2(e)

^{F8}**18** The Department may by regulations—

- (a) amend this Schedule so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority of a particular kind,
- (b) provide for this Schedule to apply with modifications in relation to such notices]

Textual Amendments

F8 Sch. 1 para. 18 and cross-heading added (1.6.2017 for specified purposes, 1.2.2022 in so far as not already in operation) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\)](#), **ss. 5(7), 20(3)**; S.R. 2017/91, art. 2(e); S.R. 2021/329, art. 2(b)

Changes to legislation:

There are currently no known outstanding effects for the The Smoking (Northern Ireland) Order 2006, SCHEDULE 1.