

EXECUTIVE NOTE

The Antisocial Behaviour (Fixed Penalty Offence) (Prescribed Area) (Scotland) Regulations 2007 SSI/2007/15

1. The above instrument was made in exercise of the powers conferred by section 129(2) of the Antisocial Behaviour etc. (Scotland) Act 2004. The instrument is subject to negative resolution procedure.

Background

2. Part 11 of the Antisocial Behaviour etc. (Scotland) Act 2004 makes provision for the issuing of fixed penalties for antisocial behaviour. Section 128(1) sets out 8 statutory and 2 common law offences for which a fixed penalty notice (FPN) can be issued.

3. To test the effectiveness of issuing FPNs for these 10 offences, a 12-month pilot scheme was conducted by Tayside Police between 1 April 2005 and 31 March 2006. Regulations enabling this pilot came into force on 1 April 2005 (SSI 2006/106) prescribing the Tayside combined police area as an area in which a person over the age of 16 may be given a FPN if a constable has reason to believe that the person has committed a fixed penalty offence as defined in section 128(1) of the Antisocial Behaviour etc. (Scotland) Act 2004.

4. The pilot has been subject to a full and independent evaluation by the University of Abertay Dundee, which has been endorsed by Scottish Ministers and the Lord Advocate. It concludes that “the Fixed Penalty Notice Scheme pilot has proved successful in Tayside and it is recommended that it be extended nationally, using the experience gained by Tayside Police and other stakeholders to facilitate its introduction.” It indicates that the 3327 £40 tickets issued by Tayside Police during the 12-month pilot significantly reduced bureaucracy and resulted in considerable time-savings (between 1300 and 2500 staff-hours) for front-line officers and the Procurator Fiscal given the consequential reduction in Standard Prosecution Reports. Feedback from Tayside police is that officers welcomed FPNs for their time-saving potential (73% agreed or strongly agreed that FPNs saved them time) and the public responded positively to the highly visible and immediate justice for those behaving in an unacceptable manner.

5. Most FPNs issued during the pilot were for “breach of the peace” (49%), “urinating or defecating in circumstances causing annoyance to others” (28%) and “consuming alcohol in a public place” (12%). 85% of FPNs were issued to males and 77% to those between the age of 16 and 30. 80% were issued on the street and the rest issued in a police station, usually as a result of the offender being drunk and requiring time to sober up before being issued with a fine. 63% of tickets were paid within the statutory period (significantly higher than in England and Wales).

6. Given the success of the pilot, Scottish Ministers are strongly of the view that FPNs for over-16s will offer an important additional tool in tackling antisocial behaviour. FPNs will help to support local antisocial behaviour strategies and Outcome Agreements and complement wider Summary Justice Reforms by reducing bureaucracy and freeing up time of front-line officers. The use of FPNs for over-16s was supported by the majority of respondents (the general public, local authorities, the police and the children's hearing panels, amongst others) to the public consultation on the introduction of the Antisocial Behaviour etc. (Scotland) Act 2004.

Policy Objective

7. These Regulations extend the prescribed area for issuing FPNs to the whole of Scotland, including so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland (and revoke SSI 2006/106, which only prescribed the Tayside combined police area for FPNs for the purposes of the pilot).

Consultation

8. As well as the independent evaluation described above, national roll-out has been discussed with the Association of Chief Police Officers in Scotland and an implementation timetable has been agreed. This will see a staggered roll-out across Scotland during 2007, with the first forces expected to go-live before the end of 2006-07.

9. The Executive intends – as recommended by the independent evaluation – to carry out a review of FPN use across Scotland, one-year on from full national implementation. We will consult stakeholders on key issues arising and any alterations proposed to the scheme following the review (such as to the range of offences and fine level).

Financial Effects

10. The Executive has budgeted £900,000 to cover national roll-out costs. This will cover police and local authority costs, including the need to upgrade IT systems in police forces and District Courts to enable them to process FPNs. Given that these Regulations are only expected to impose negligible costs on the public sector and no costs on the private sector, charities and voluntary sector, a Regulatory Impact Assessment has not been deemed necessary.

Scottish Executive Justice Department
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