

## **POLICY NOTE**

### **THE CONTROLLED WASTE (FIXED PENALTY NOTICES) (SCOTLAND) ORDER 2014**

#### **SSI 2014/320**

The above instrument was made by Scottish Ministers in exercise of the powers conferred by section 33A(8) of the Environmental Protection Act 1990 and all other relevant powers enabling them to do so. The instrument is subject to negative procedure.

#### **Policy Objectives**

Section 33A of the Environmental Protection Act 1990 provides for the payment of a fixed penalty, to discharge any liability to conviction, for the controlled waste offences under section 33 (1)(a) or (c) of that Act. Those offences include the unauthorised depositing of controlled waste (which covers “fly tipping”).

The instrument revokes and replaces the Controlled Waste (Fixed Penalty Notices) (Scotland) Order 2004. From 1 April 2015, it updates the previous fixed penalty notice form to reflect changes made by the Regulatory Reform (Scotland) Act 2014 (“the 2014 Act”) and the Litter (Fixed Penalties) (Scotland) Order 2013 (“the 2013 Order”), and makes other minor updates. In particular, the new notice has been changed to:

- add Loch Lomond and the Trossachs National Park Authority to the list of organisations with authority to issue controlled waste fixed penalty notices, reflecting amendments made to section 33A by the 2014 Act;
- replace references to ‘authorised officer’ with ‘authorised person’ to reflect amendments made to section 33A which now provides that an “authorised person” may impose a fixed penalty notice. An “authorised person” may be an authorised officer of a local authority or an authorised officer of Loch Lomond and the Trossachs National Park Authority, or any such other persons as may be specified by order made by the Scottish Ministers.
- reflect that SEPA officers are no longer able to issue such notices following amendments made by the 2014 Act;
- update the amount of the fine from £50 to £200 to reflect changes made by the 2013 Order.

#### **Consultation**

These are minor and consequential updates so no separate public consultation was carried out. The Scottish Government has informally consulted on the updated notice with Zero Waste Scotland, Police Scotland, practitioners in several local authorities and Loch Lomond and the Trossachs National Park who are all content.

#### **Impact Assessments**

There are no equality impact issues as a consequence of updating this notice.

## **Financial Effects**

The Cabinet Secretary for Rural Affairs, Food and the Environment confirms that no BRIA is necessary. The instrument will not have a significant financial effect on the Scottish Government, local government or on business.

Scottish Government  
Environment & Forestry Directorate  
November 2014