
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 321

ENVIRONMENTAL PROTECTION

The Litter (Fixed Penalty Notices) (Scotland) Order 2014

Made - - - - - *19th November 2014*
Laid before the Scottish
Parliament - - - - - *21st November 2014*
Coming into force - - - - - *1st April 2015*

The Scottish Ministers make the following Order in exercise of the power conferred by section 88(5) of the Environmental Protection Act 1990⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Litter (Fixed Penalty Notices) (Scotland) Order 2014 and comes into force on 1st April 2015.

Form of fixed penalty notice

2. The form of notices under section 88 of the Environmental Protection Act 1990 (fixed penalty notices for leaving litter) is prescribed in the Schedule.

Revocation of Order

3. The Litter (Fixed Penalty Notices) (Scotland) Order 2004⁽²⁾ is revoked.

St Andrew's House, Edinburgh
19th November 2014

RICHARD LOCHHEAD
A member of the Scottish Government

(1) 1990 c.43; section 88 was amended by paragraph 1 of Schedule 14 to the Local Government etc. (Scotland) Act 1994 (c.39); paragraph 1 of Schedule 24 to the Environment Act 1995 (c.25); section 56 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8); paragraph 8(b) of schedule 1 to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); S.S.I. 2013/315; and paragraph 11 of schedule 3 to the Regulatory Reform (Scotland) Act 2014 (asp 3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.S.I. 2004/427.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 2

OFFENCE OF LEAVING LITTER

NOTICE OF OPPORTUNITY TO PAY FIXED PENALTY

The Environmental Protection Act 1990, section 88

Alleged offender:

Address:

I, ^(a), an authorised person/a constable (delete as necessary) of ^(b) have reason to believe that on ^(c) you committed an offence of leaving litter, under section 87 of the Environmental Protection Act 1990, in the area of ^(d). This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. The circumstances alleged to constitute the offence are as follows^(e)

No proceedings will be taken for this offence before the expiration of fourteen days following the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during that period of fourteen days.

The amount of the fixed penalty is ^(f). It may be paid to ^(g) at the following address ^(h).

Payment may be made by pre-paying and posting to ^(g) at ^(h) a letter containing the amount of the penalty. Payment may be in cash or by a cheque, postal order or money order made payable to ^(g) (if you are sending cash you are advised to send it by registered post). Payment made in this way will be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post. Alternatively payment may be made in person or by any other method.

Signature of authorised person/constable.....

Date.....

^(a) Insert name of authorised person/constable.
^(b) Insert name of litter authority, Loch Lomond and The Trossachs National Park Authority, or, as the case may be, Police Scotland.
^(c) Insert date on which offence is alleged to have been committed.
^(d) Insert name of area of litter authority or place where the offence is alleged to have been committed.
^(e) Insert such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
^(f) Insert amount of £80 or any different amount for the time being specified by the Scottish Ministers under section 88(7) of the Environmental Protection Act 1990.
^(g) Insert title or name of the person to whom the fixed penalty is to be paid.
^(h) Insert address at which payment is to be made.

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Letter which may be used for payment by post

I enclose with this letter the amount of _____, being the fixed penalty for an offence of leaving litter under section 87 of the Environmental Protection Act 1990.

Signature

Name in capitals

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the form of notices under section 88 of the Environmental Protection Act 1990. A notice under section 88 may be given by an authorised person or a constable to a person who the authorised person or constable has reason to believe has committed an offence under section 87 of the Act (offence of leaving litter). The effect of giving the notice is that no proceedings shall be instituted for the offence before the expiration of fourteen days following the date of the notice, and that a person who pays the fixed penalty within that period shall not be convicted of the offence.

The Order revokes and replaces the Litter (Fixed Penalty Notices) (Scotland) Order 2004. It reflects amendments, coming into force on 1st April 2015, made by the Regulatory Reform (Scotland) Act 2014 to the effect that notices can be issued by “authorised persons”, being authorised officers of a litter authority, authorised officers of Loch Lomond and The Trossachs National Park Authority, or such other persons as may be specified by order made by the Scottish Ministers.