

*Changes to legislation: There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Paragraph 11. (See end of Document for details)*

## SCHEDULE 1

### [<sup>F1</sup>FIXED PENALTY FOR OFFENCES UNDER SECTIONS 1, 2, 3, 4A, 4B AND 4C(5)]

#### Textual Amendments

- F1** Sch. 1 title substituted (2.3.2022 for specified purposes, 5.9.2022 in so far as not already in force) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), ss. 20(8)(f), 36(2); S.S.I. 2022/43, reg. 2, sch.

#### Judicial determination of enforcement of fixed penalty

- 11 (1) A person against whom a fixed penalty bears to be enforceable under paragraph 10 may apply to the sheriff by summary application 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 7 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 7;
  - (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.

#### Modifications etc. (not altering text)

- C1** Sch. 1 paras. 6-11 applied (15.5.2006) by Smoking, Health and Social Care (Scotland) Act 2005 and The Prohibition Of Smoking In Certain Premises (Scotland) Regulations 2006 (Consequential Provisions) (Scotland) Order 2006 (S.I. 2006/1115), arts. 1, 3 (with art. 4)

#### Commencement Information

- I1** Sch. 1 para. 11 in force at 26.3.2006 at 0600 hours by S.S.I. 2005/492, art. 3(d)

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