

# PLANNING ETC. (SCOTLAND) ACT 2006

---

## EXPLANATORY NOTES

### THE ACT – SECTION BY SECTION

#### Part 4 – Enforcement

##### *Section 25 – Fixed penalty notices*

146. **Subsection (1)** inserts **new section 136A** into the 1997 Act. This establishes powers for planning authorities to issue fixed penalty notices as an alternative to prosecution in cases where a person is in breach of an enforcement notice. In the new section 136A, subsection (1) allows a planning authority to issue a fixed penalty notice provided certain conditions, as set out in subsection (7), are met. The conditions of subsection (7) are that the fixed penalty notice must be issued within 6 months of the failure to comply with the enforcement notice, and that a fixed penalty notice cannot be issued where a person has already been charged with an offence in respect of the breach of the enforcement notice.
147. Subsections (4), (5) and (6) of new section 136A set out that a person who receives a fixed penalty notice has 30 days to pay the penalty, and that the penalty is reduced by 25% if payment is made within 15 days.
148. Subsection (10) of new section 136A provides that any payment received by a planning authority in respect of a fixed penalty notice is retained by the authority.
149. Subsection (11) of new section 136A allows Scottish Ministers to prescribe in secondary legislation different levels of fine for different cases. This will allow Ministers to set out in regulations an incremental scale of fines related to previous fixed penalty notices or prosecutions.
150. **Subsection (2)** inserts **new section 145A** into the 1997 Act. This establishes a similar power to that of section 136A, allowing planning authorities to issue fixed penalty notices in respect of breaches of breach of condition notices. The various subsections of new section 145A make the same provision as those of 136A with regard to payment and the introduction of a scale of fines as set out by Ministers in regulations.