
Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020, PART 1. (See end of Document for details)

SCHEDULE 5 CAMPAIGN RULES: CIVIL SANCTIONS

PART 1

FIXED MONETARY PENALTIES

Imposition of fixed monetary penalties

- 1
- (1) The Electoral Commission may by notice impose a fixed monetary penalty on a person if satisfied beyond reasonable doubt that the person has committed a campaign offence listed in Part 7.
 - (2) The Commission may by notice impose a fixed monetary penalty on a permitted participant if satisfied beyond reasonable doubt that the responsible person in relation to the permitted participant—
 - (a) has committed a campaign offence listed in Part 7, or
 - (b) has failed to comply with a requirement imposed by paragraph 24(2), (3) or (4) of schedule 3.
 - (3) For the purposes of this schedule a “fixed monetary penalty” is a requirement to pay to the Commission a penalty of £200.

Representations and appeals etc.

- 2
- (1) Where the Electoral Commission propose to impose a fixed monetary penalty on a person, they must serve on the person a notice of what is proposed.
 - (2) A notice under sub-paragraph (1) must offer the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of £200.

The following provisions of this paragraph apply if the person does not do so.
 - (3) The person may make written representations and objections to the Commission in relation to the proposed imposition of the fixed monetary penalty.
 - (4) After the end of the period for making such representations and objections (see paragraph 3(2)) the Commission must decide whether to impose the fixed monetary penalty.

If they decide to do so they must serve on the person a notice imposing the penalty.
 - (5) The Commission may not impose a fixed monetary penalty on a person if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 1(1) or (2) (as applicable).
 - (6) A person on whom a fixed monetary penalty is imposed may appeal against the decision to impose the penalty on the ground that the decision was—
 - (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unreasonable.

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- (7) An appeal under sub-paragraph (6) is to a sheriff and must be made within the period of 28 days beginning with the day on which the notice under sub-paragraph (4) is received.
- (8) Where an appeal under sub-paragraph (6) is made, the fixed monetary penalty is suspended from the day on which the appeal is made until the day on which the appeal is determined or withdrawn.

Information to be included in notices under paragraph 2

- 3 (1) A notice under paragraph 2(1) must include information as to—
 - (a) the grounds for the proposal to impose the fixed monetary penalty,
 - (b) the effect of payment of the sum referred to in paragraph 2(2),
 - (c) the right to make representations and objections,
 - (d) the circumstances in which the Commission may not impose the fixed monetary penalty.
- (2) Such a notice must also specify—
 - (a) the period within which liability for the fixed monetary penalty may be discharged, and
 - (b) the period within which representations and objections may be made.

Neither period may be more than 28 days beginning with the day on which the notice is received.
- (3) A notice under paragraph 2(4) must include information as to—
 - (a) the grounds for imposing the fixed monetary penalty,
 - (b) how payment may be made,
 - (c) the period within which payment may be made,
 - (d) any early payment discounts or late payment penalties,
 - (e) rights of appeal,
 - (f) the consequences of non-payment.

Late payment

- 4 (1) A fixed monetary penalty must be paid within the period of 28 days beginning with the day on which the notice under paragraph 2(4) is received.
- (2) If the penalty is not paid within that period the amount payable is increased by 25%.
- (3) If the penalty (as increased by sub-paragraph (2)) is not paid within the period of 56 days beginning with the day on which the notice under paragraph 2(4) is received, the amount payable is the amount of the fixed monetary penalty originally imposed increased by 50%.
- (4) In the case of an appeal, any penalty which falls to be paid, whether because the sheriff upheld the penalty or because the appeal was withdrawn, is payable within the period of 28 days beginning with the day of determination or withdrawal of the appeal, and if not paid within that period the amount payable is increased by 25%.
- (5) If the penalty (as increased by sub-paragraph (4)) is not paid within the period of 56 days beginning with the day of determination or withdrawal of the appeal, the amount

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payable is the amount of the fixed monetary penalty originally imposed increased by 50%.

Fixed monetary penalties: criminal proceedings and conviction

- 5 (1) Where a notice under paragraph 2(1) is served on a person—
- (a) no criminal proceedings for a campaign offence may be instituted against the person in respect of the act or omission to which the notice relates before the end of the period within which the person's liability may be discharged as mentioned in paragraph 2(2) (see paragraph 3(2)),
 - (b) if the liability is so discharged, the person may not at any time be convicted of a campaign offence in relation to that act or omission.
- (2) A person on whom a fixed monetary penalty is imposed may not at any time be convicted of a campaign offence in respect of the act or omission giving rise to the penalty.

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