



# Local Government Byelaws (Wales) Act 2012

2012 anaw 2

## *Fixed penalty notices*

### **12 Power to offer fixed penalties for offences against certain byelaws**

- (1) This section applies to byelaws made by a legislating authority under the enactments listed in Part 2 of Schedule 1 (byelaws in relation to which fixed penalties may be issued).
- (2) If an authorised officer of a legislating authority has reason to believe that a person has committed an offence against a byelaw made by that authority, the officer may give a notice to the person offering the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (3) If an authorised officer of a community council has reason to believe that a person has committed an offence in its area against a byelaw made by a legislating authority other than the community council, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (4) A fixed penalty under this section is payable to the authority whose officer gave the notice.
- (5) Where a person is given a notice under this section in respect of an offence –
  - (a) no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice, and
  - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (6) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary to explain why an offence has occurred.
- (7) A notice under this section must also state –

- (a) the period under subsection (5) during which proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty;
  - (c) the person to whom and the address at which the fixed penalty may be paid.
- (8) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person referred to, at the address provided, in the notice.
- (9) If a letter is sent, payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (10) The Welsh Ministers may by regulations specify the form of a notice under this section.
- (11) In any proceedings a certificate which –
- (a) purports to be signed on behalf of the chief finance officer of an authority, and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.
- (12) In this section –
- “authorised officer”, in relation to an authority, means –
    - (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section,
    - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform the function, and
    - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;
  - “chief finance officer”, in relation to an authority, means the person having responsibility for the financial affairs of the authority.
- (13) The Welsh Ministers may by regulations prescribe conditions to be satisfied by a person before a community council may authorise the person in writing for the purpose of giving notices under this section.

### **13 Amount of fixed penalty**

- (1) A legislating authority may –
- (a) specify the amount of a fixed penalty payable in pursuance of a notice under section 12;
  - (b) specify different amounts in relation to different byelaws.
- (2) If no amount is so specified, the amount of the fixed penalty is £75.
- (3) The Welsh Ministers may by regulations make provision in connection with the powers under subsection (1).
- (4) Regulations under subsection (3) may, in particular –
- (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, an authority can make provision under subsection (1)(b).

- (5) The Welsh Ministers may by order substitute a different amount for the amount for the time being specified in subsection (2).

#### **14 Power to require name and address in connection with fixed penalty**

- (1) If an authorised officer proposes to give a person a notice under section 12, the officer may require the person to give his or her name and address.
- (2) A person commits an offence if that person –
- (a) without reasonable excuse, fails to give his or her name and address when required to do so, or
  - (b) gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) In this section, “authorised officer” has the same meaning as in section 12.

#### **15 Use of fixed penalty receipts**

- (1) The authority must have regard to the desirability of using its fixed penalty receipts for the purpose of combating a nuisance for the prevention of which a byelaw was made by the authority.
- (2) “Fixed penalty receipts” means amounts paid to an authority in pursuance of notices under section 12.

#### **16 Power to amend Part 2 of Schedule 1**

The Welsh Ministers may by order amend Part 2 of Schedule 1 (byelaws in relation to which fixed penalty notices may be issued) by adding to or subtracting from the list of enactments, or by amending the type of authority that may offer fixed penalty notices.

#### **17 Community Support Officers etc**

- (1) The Police Reform Act 2002 is amended as follows.
- (2) In Schedule 4 (powers exercised by police civilians) –
- (a) in paragraph 1ZA(3) after “1972” insert “or under section 12 of the Local Government Byelaws (Wales) Act 2012”;
  - (b) in paragraph 1ZA(5)(a) after “1972” insert “or to which section 12 of the Local Government Byelaws (Wales) Act 2012 applies”.
- (3) In Schedule 5 (powers exercised by accredited persons) –
- (a) in paragraph 1A(3) after “1972” insert “or under section 12 of the Local Government Byelaws (Wales) Act 2012”;
  - (b) in paragraph 1A(5)(a) after “1972” insert “or to which section 12 of the Local Government Byelaws (Wales) Act 2012”.