

SCHEDULES

SCHEDULE 1

Section 11(3).

POWERS OF AUTHORISED OFFICERS

1. An authorised officer has the right to do any of the following, on production (if required) of the officer's authorisation—

- (a) at any reasonable hour, enter any premises within the district of that council to ascertain whether an offence under sections 1 to 9 has been or is being committed there;
- (b) there carry out such inspections and examinations as the officer considers necessary for the purpose of the proper exercise of the officer's functions under this Act;
- (c) if the officer considers it necessary for that purpose—
 - (i) require the production of any book, document or record (in whatever form it is held); and
 - (ii) inspect it and take copies of or extracts from it;
- (d) take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the authorised officer considers necessary for that purpose;
- (e) require any person to give the officer such information, or afford the officer such facilities and assistance, as the officer considers necessary for that purpose.

2. A person may not be required under paragraph 1 to answer any question or to produce any document which the person would be entitled to refuse to answer or produce in or for the purpose of proceedings in a court in Northern Ireland.

3.—(1) An authorised officer may not under paragraph 1 enter premises which are occupied as a private dwelling unless under the authority of a warrant issued under sub-paragraph (2).

(2) A lay magistrate may issue a warrant, authorising the authorised officer to enter premises which are occupied as a private dwelling if need be by force, only if satisfied by complaint on oath that there are reasonable grounds for suspecting that—

- (a) an offence mentioned in paragraph 1(a) has been, or is being, committed; and

(b) evidence of the commission of that offence may be found in those premises.

4.—(1) In relation to premises other than premises occupied as a private dwelling, a lay magistrate may exercise the power in sub-paragraph (3) if the magistrate is satisfied by complaint on oath—

(a) that for the purpose of the proper exercise of the functions of a district council under this Act there are reasonable grounds for entering into any premises; and

(b) of either or both of the matters mentioned in sub-paragraph (2).

(2) The matters are—

(a) that admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant under this Schedule has been given to the occupier or a person who reasonably appears to the district council to be concerned in the management of the premises;

(b) that an application for admission, or the giving of such notice, would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await the occupier's return.

(3) A lay magistrate may issue a warrant authorising the authorised officer to enter the premises, if need be by force.

5. A warrant under paragraph 3 or 4 continues in force until the end of the period of one month beginning with the date on which the lay magistrate signs it.

6. An authorised officer entering any premises under this Schedule may take with the officer such other persons and such equipment as the officer considers necessary.

7. If premises which an authorised officer is authorised to enter by a warrant are unoccupied, or if the occupier is temporarily absent, then on leaving them that officer must leave the premises as effectively secured against unauthorised entry as the officer found them.

SCHEDULE 2

Section 12(3).

FIXED PENALTIES

Contents of fixed penalty notices

1. A fixed penalty notice must—

(a) state the alleged offence; and

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- (b) give such particulars of the circumstances alleged to constitute it as are necessary for giving reasonable information about it.

2.—(1) A fixed penalty notice must also state—

- (a) the amount of the penalty and the period for its payment;
- (b) the consequences of not paying the penalty before the end of the period mentioned in head (a);
- (c) the person to whom and the address at which payment may be made;
- (d) by what method payment may be made;
- (e) the person to whom and the address at which any representations relating to the notice may be made.

(2) The person mentioned in sub-paragraph (1)(c) and (e) must be the district council on whose behalf the authorised officer was acting when the officer gave the notice.

3. A fixed penalty notice must also—

- (a) inform the person to whom it is given of the person's right to be tried for the alleged offence; and
- (b) explain how that right may be exercised.

Amount of fixed penalty and period for payment

4. The fixed penalty is such amount as may be prescribed.

5. The period for payment of the fixed penalty is the period of 28 days beginning with the day on which the notice is given.

Effect of notice and payment

6.—(1) Proceedings for the offence in respect of which a fixed penalty notice was given may not be brought before the end of the period for payment of the fixed penalty.

(2) Sub-paragraph (1) does not apply if the person to whom the notice was given has asked in accordance with paragraphs 11 and 12 to be tried for the alleged offence.

7. If the fixed penalty is paid in accordance with the fixed penalty notice before the end of the period for payment of the fixed penalty, no proceedings for the offence may be brought and paragraph 11 does not apply.

8. If proceedings have been brought pursuant to a request under paragraph 11, but then the penalty is paid as mentioned in paragraph 7 those proceedings may not be continued.

- 9.** In any proceedings, a certificate is evidence of the facts which it states if it—
- (a) purports to be signed by or on behalf of the person responsible for the financial affairs of the district council on whose behalf the authorised officer who gave a fixed penalty notice was acting; and
 - (b) states that payment of the fixed penalty in pursuance of the notice was or was not received by the expiry of the period within which that fixed penalty may be paid.
- 10.** Any sum received by a district council under this Schedule accrues to that council.

Trial

- 11.** If the person to whom a fixed penalty notice has been given asks to be tried for the alleged offence, proceedings may be brought against that person.
- 12.** Any request to be tried must be made—
- (a) by notice given to the district council in question before the end of the period for payment of the penalty;
 - (b) in the manner specified in the fixed penalty notice.

Withdrawal of fixed penalty notices

- 13.—(1)** The district council must consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.
- (2) Where a fixed penalty notice is withdrawn in accordance with subparagraph (1)—
- (a) the district council must give notice of the withdrawal to the person to whom the fixed penalty notice was given;
 - (b) the district council must repay any amount which has been paid under the fixed penalty notice; and
 - (c) no proceedings are to be brought or continued against that person for the offence in question.

Regulations

- 14.** The Department may by regulations—
- (a) provide that fixed penalty notices may not be given in such circumstances as may be prescribed;
 - (b) provide for the form of a fixed penalty notice;
 - (c) provide for the method by which fixed penalties may be paid;

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- (d) modify paragraph 5 so as to substitute a different period for the period for the time being specified there;
- (e) provide for the keeping of accounts, and the preparation and publication of statements of account relating to fixed penalties under this Schedule.