



2016 CHAPTER 22

PART 5

Supplementary

Fixed penalty as alternative to prosecution

Fixed penalty: service of notice

64.—(1) This section applies where an authorised officer of a council has reason to believe that a person has committed an offence under any of the following provisions—

- (a) section 30, 31, 32 or 33;
- (b) section 37(1);
- (c) section 49;
- (d) section 60;
- (e) section 75;
- (f) section 80(5);
- (g) section 82(4);
- (h) paragraph 14 of Schedule 2;
- (i) paragraph 8 of Schedule 3.

(2) The officer may serve on the person a notice which—

- (a) offers the person the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty,
- (b) contains the information required by subsections (3) to (5) and (7),

- (c) contains such other information as may be specified in regulations made by the Department, and
 - (d) is in such form as the council specifies by general notice.
- (3) The notice must give particulars of the circumstances alleged to constitute the offence.
- (4) The notice must state the amount of the fixed penalty, which is to be determined by the council but must not exceed—
- (a) in the case of an offence under section 30(1) or (2), 31(1) or 60(1), (2) or (4), £5,000;
 - (b) in the case of an offence under section 30(3), 31(2) or (3), 32, 33 or 37(1), £2,500;
 - (c) in the case of an offence under section 60(6), 80(5) or 82(4) or paragraph 8 of Schedule 3, £500;
 - (d) in the case of an offence under section 49, section 75 or paragraph 14 of Schedule 2, £200.
- (5) The notice must state the period during which (in accordance with section 65(1)) proceedings will not be commenced for the offence.
- (6) The fixed penalty is to be payable to the council.
- (7) The notice must state the arrangements for paying the fixed penalty; and those arrangements must include, at the least, a person to whom and an address at which the fixed penalty may be paid.
- (8) An “authorised officer” of a council is an officer who is authorised in writing by the council for the purposes of this section.

Fixed penalty: effect of notice

- 65.—**(1) Where a notice under section 64 is served on a person in respect of an offence—
- (a) no proceedings may be commenced against the person for the offence before the end of the period of 14 days, or such other longer period as may be specified in the notice, following the date on which the notice is served; and
 - (b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- (2) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the clerk of the council, 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.

(3) A council may use amounts paid to it in pursuance of notices under section 64 only for the purposes of its functions under this Act or such other of its functions as may be specified in regulations made by the Department.

Fixed penalty: power to alter amounts

66.—(1) The Department may by order substitute for any sum specified in section 64(4) such other sum as appears to the Department—

- (a) to be justified by a change in the value of money appearing to the Department to have taken place since the passing of this Act or since the last occasion on which an order was made under this section, or
- (b) to be appropriate to take account of an order which has been made, or is proposed to be made, under Article 17(2) of the Fines and Penalties (Northern Ireland) Order 1984 altering the standard scale set out in Article 5(2) of that Order.

(2) An order under subsection (1)—

- (a) is subject to negative resolution, and
- (b) does not affect the punishment for an offence committed before that order comes into force.