



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 1

#### PROVISIONS FOR COMBATTING CRIME AND DISORDER

### CHAPTER 1

#### ON THE SPOT PENALTIES FOR DISORDERLY BEHAVIOUR

##### **Modifications etc. (not altering text)**

- C1** Pt. 1 Ch. 1 extended (15.11.2003) by [Police Reform Act 2002 \(c. 30\)](#), ss. 38, 108, [Sch. 4 para. 1\(2\)\(a\)](#); [S.I. 2003/2593](#), [art. 2\(d\)](#)
- C2** Pt. 1 Ch. 1 modified (26.12.2004) by [The Penalties for Disorderly Behaviour \(Amendment of Minimum Age\) Order 2004 \(S.I. 2004/3166\)](#), [art. 6](#)

#### *Offences to which this Chapter applies*

### **1 Offences leading to penalties on the spot**

- (1) For the purposes of this Chapter “penalty offence” means an offence committed under any of the provisions mentioned in the first column of the following Table and described, in general terms, in the second column:

<i>Offence creating provision</i>	<i>Description of offence</i>
Section 12 of the Licensing Act 1872 (c.94)	Being drunk in a highway, other public place or licensed premises
Section 80 of the Explosives Act 1875 (c.17)	Throwing fireworks in a thoroughfare

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<p>...</p> <p>Section 55 of the British Transport Commission Act 1949 (c.xxix)</p> <p>Section 56 of the British Transport Commission Act 1949 (c.xxix)</p> <p>[<sup>F2</sup>Section 169A of the Licensing Act 1964 (c. 26)</p> <p>Section [<sup>F3</sup>169C(2) and (3)] of the Licensing Act 1964 (c.26)</p> <p>[<sup>F5</sup>Section 169E of the Licensing Act 1964 (c. 26)</p> <p>[<sup>F6</sup>Section 169F of the Licensing Act 1964 (c. 26)</p> <p>Section 91 of the Criminal Justice Act 1967 (c.80)</p> <p>Section 5(2) of the Criminal Law Act 1967 (c.58)</p> <p>[<sup>F7</sup>Section 1 of the Theft Act 1968 (c. 60)</p> <p>[<sup>F8</sup>Section 1(1) of the Criminal Damage Act 1971 (c. 48)</p> <p>[<sup>F9</sup>Section 43(1)(b) of the Telecommunications Act 1984 (c.12)]</p> <p>[<sup>F10</sup>Section 5 of the Public Order Act 1986 (c.64)</p> <p>[<sup>F11</sup>Section 87 of the Environmental Protection Act 1990 (c. 43)</p> <p>Section 12 of this Act</p> <p>[<sup>F12</sup>Section 127(2) of the Communications Act 2003</p> <p>[<sup>F13</sup>Section 11 of the Fireworks Act 2003 (c. 22)</p> <p>[<sup>F14</sup>Section 49 of the Fire and Rescue Services Act 2004 (c. 21)</p>	<p>...</p> <p>Trespassing on a railway</p> <p>Throwing stones etc. at trains or other things on railways</p> <p>Sale of alcohol to a person under 18]</p> <p>Buying or attempting to buy alcohol for <sup>F4</sup> ... a person under 18</p> <p>Consumption of alcohol by a person under 18 or allowing such consumption]</p> <p>Delivery of alcohol to a person under 18 or allowing such delivery]</p> <p>Disorderly behaviour while drunk in a public place</p> <p>Wasting police time or giving false report</p> <p>Theft]</p> <p>Destroying or damaging property]</p> <p>[<sup>F9</sup>Using public telecommunications system for sending message known to be false in order to cause annoyance]</p> <p>Behaviour likely to cause harassment, alarm or distress]</p> <p>Depositing and leaving litter]</p> <p>Consumption of alcohol in designated public place</p> <p>Using public electronic communications network in order to cause annoyance, inconvenience or needless anxiety]</p> <p>Contravention of a prohibition or failure to comply with a requirement imposed by or under fireworks regulations or making false statements]</p> <p>Knowingly giving a false alarm of fire]</p>
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- (2) The Secretary of State may by order amend an entry in the Table or add or remove an entry.

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- (3) An order under subsection (2) may make such amendment of any provision of this Chapter as the Secretary of State considers appropriate in consequence of any change in the Table made by the order.
- (4) The power conferred by subsection (2) is exercisable by statutory instrument.
- (5) No order shall be made under subsection (2) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

#### Textual Amendments

- F1** S. 1(1) table: entry repealed (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), ss. 53, 54, Sch. 1 para. 97(2), [Sch. 2](#); S.I. 2004/2304, [art. 2](#) (subject to art. 3); S.I. 2004/2917, [art. 2](#)
- F2** S. 1(1) table: entry inserted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(2\)](#)
- F3** S. 1(1) table: words in entry substituted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(3\)\(a\)](#)
- F4** S. 1(1) table: words in entry omitted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(3\)\(b\)](#)
- F5** S. 1(1) table: entry inserted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(4\)](#)
- F6** S. 1(1) table: entry inserted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(4\)](#)
- F7** S. 1(1) table: entry inserted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(5\)](#)
- F8** S. 1(1) table: entry inserted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(5\)](#)
- F9** S. 1(1) table: entry repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406(1)(6), 408, 411, [Sch. 19\(1\)](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, [art. 3\(2\)](#) (with art. 11)
- F10** S. 1(1) table: entry inserted (22.7.2002) by [The Criminal Justice and Police Act 2001 \(Amendment\) Order 2002 \(S.I. 2002/1934\)](#), [art. 2](#)
- F11** S. 1(1) table: entry inserted (1.11.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(4), [2\(6\)](#)
- F12** S. 1(1) table: entry in table inserted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406(1)(6), 408, 411, [Sch. 17 para. 169](#) (with Sch. 18); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, [art. 3\(2\)](#) (with art. 11)
- F13** S. 1(1) table: entry inserted (11.10.2004) by [The Criminal Justice and Police Act 2001 \(Amendment\) and Police Reform Act 2002 \(Modification\) Order 2004 \(S.I. 2004/2540\)](#), arts. 1(3), [2\(7\)](#)
- F14** S. 1(1) table: entry added (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), ss. 53, Sch. 1 para. 97(3); S.I. 2004/2304, [art. 2](#) (subject to art. 3); S.I. 2004/2917, [art. 2](#)

#### Commencement Information

- I1** S. 1 wholly in force at 12.8.2002; s. 1 not in force at Royal Assent see s. 138; s. 1 in force for certain purposes at 1.3.2002 by S.I. 2002/344, [art. 2](#); s. 1 in force at 12.8.2002 in so far as not already in force by S.I. 2002/2050, [art. 2](#)

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## *Penalty notices and penalties*

### 2 Penalty notices

- (1) A constable who has reason to believe that a person aged [<sup>F15</sup>10] or over has committed a penalty offence may give him a penalty notice in respect of the offence.
- (2) Unless the notice is given in a police station, the constable giving it must be in uniform.
- (3) At a police station, a penalty notice may be given only by an authorised constable.
- (4) In this Chapter “penalty notice” means a notice offering the opportunity, by paying a penalty in accordance with this Chapter, to discharge any liability to be convicted of the offence to which the notice relates.
- (5) “Authorised constable” means a constable authorised, on behalf of the chief officer of police for the area in which the police station is situated, to give penalty notices.
- [<sup>F16</sup>(6) The Secretary of State may by order—
  - (a) amend subsection (1) by substituting for the age for the time being specified in that subsection a different age which is not lower than 10, and
  - (b) if that different age is lower than 16, make provision as follows—
    - (i) where a person whose age is lower than 16 is given a penalty notice, for a parent or guardian of that person to be notified of the giving of the notice, and
    - (ii) for that parent or guardian to be liable to pay the penalty under the notice.
- (7) The provision which may be made by virtue of subsection (6)(b) includes provision amending, or applying (with or without modifications), this Chapter or any other enactment (whenever passed or made).
- (8) The power conferred by subsection (6) is exercisable by statutory instrument.
- (9) No order shall be made under subsection (6) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.]

#### Textual Amendments

- F15** Word in s. 2(1) substituted (26.12.2004) by [The Penalties for Disorderly Behaviour \(Amendment of Minimum Age\) Order 2004 \(S.I. 2004/3166\)](#), **art. 2**
- F16** S. 2(6)-(9) inserted (20.1.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), **ss. 87(3)**, 93; S.I. 2003/3300, **art. 2(f)(iii)**

### 3 Amount of penalty and form of penalty notice

- (1) The penalty payable in respect of a penalty offence is such amount as the Secretary of State may specify by order.
- [<sup>F17</sup>(1A) The Secretary of State may specify different amounts for persons of different ages.]
- (2) But the Secretary of State may not specify an amount which is more than a quarter of the amount of the maximum fine for which a person is liable on [<sup>F18</sup>summary] conviction of the offence.

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- (3) A penalty notice must—
- (a) be in the prescribed form;
  - (b) state the alleged offence;
  - (c) give such particulars of the circumstances alleged to constitute the offence as are necessary to provide reasonable information about it;
  - (d) specify the suspended enforcement period (as to which see section 5) and explain its effect;
  - (e) state the amount of the penalty;
  - (f) state the [<sup>F19</sup>designated officer for a local justice area] to whom, and the address at which, the penalty may be paid; and
  - (g) inform the person to whom it is given of his right to ask to be tried for the alleged offence and explain how that right may be exercised.
- (4) “Prescribed” means prescribed by regulations made by the Secretary of State.
- (5) The power to make regulations or an order conferred by this section is exercisable by statutory instrument.
- (6) Such an instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F17** S. 3(1A) inserted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 87(4), 93; S.I. 2003/3300, art. 2(f)(iii)
- F18** Word in s. 3(2) inserted (1.11.2004) by The Criminal Justice and Police Act 2001 (Amendment) and Police Reform Act 2002 (Modification) Order 2004 (S.I. 2004/2540), arts. 1(4), 3
- F19** Words in s. 3(3)(f) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 397; S.I. 2005/910, art. 3

#### 4 Effect of penalty notice

- (1) This section applies if a penalty notice is given to a person (“A”) under section 2.
- (2) If A asks to be tried for the alleged offence, proceedings may be brought against him.
- (3) Such a request must be made by a notice given by A—
- (a) in the manner specified in the penalty notice; and
  - (b) before the end of the period of suspended enforcement (as to which see section 5).
- (4) A request which is made in accordance with subsection (3) is referred to in this Chapter as a “request to be tried”.
- (5) If, by the end of the suspended enforcement period—
- (a) the penalty has not been paid in accordance with this Chapter, and
  - (b) A has not made a request to be tried,
- a sum equal to one and a half times the amount of the penalty may be registered under section 8 for enforcement against A as a fine.

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## 5 General restriction on proceedings

- (1) Proceedings for the offence to which a penalty notice relates may not be brought until the end of the period of 21 days beginning with the date on which the notice was given (“the suspended enforcement period”).
- (2) If the penalty is paid before the end of the suspended enforcement period, no proceedings may be brought for the offence.
- (3) Subsection (1) does not apply if the person to whom the penalty notice was given has made a request to be tried.

## 6 Secretary of State’s guidance

The Secretary of State may issue guidance—

- (a) about the exercise of the discretion given to constables by this Chapter;
- (b) about the issuing of penalty notices;
- (c) with a view to encouraging good practice in connection with the operation of provisions of this Chapter.

### *Procedure*

## 7 Payment of penalty

- (1) If a person to whom a penalty notice is given decides to pay the penalty, he must pay it to the [<sup>F20</sup>designated officer] specified in the notice.
- (2) Payment of the penalty may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise).
- (3) Subsection (4) applies if a person—
  - (a) claims to have made payment by that method, and
  - (b) shows that his letter was posted.
- (4) Unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.
- (5) Subsection (2) is not to be read as preventing the payment of a penalty by other means.
- (6) A letter is properly addressed for the purposes of subsection (2) if it is addressed in accordance with the requirements specified in the penalty notice.

### **Textual Amendments**

**F20** Words in s. 7(1) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 398](#); [S.I. 2005/910](#), [art. 3](#)

## 8 Registration certificates

- (1) The chief officer of police may, in respect of any registrable sum, issue a certificate (a “registration certificate”) stating that the sum is registrable for enforcement against the defaulter as a fine.

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- (2) If that officer issues a registration certificate, he must cause it to be sent to the [F<sup>21</sup>designated officer for the local justice] area in which the defaulter appears to that officer to reside.
- (3) A registration certificate must—
  - (a) give particulars of the offence to which the penalty notice relates, and
  - (b) state the name and last known address of the defaulter and the amount of the registrable sum.
- (4) “Registrable sum” means a sum that may be registered under this section as a result of section 4(5).
- (5) “Defaulter” means the person against whom that sum may be registered.

#### Textual Amendments

**F21** Words in s. 8(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 399; S.I. 2005/910, art. 3

## 9 Registration of sums payable in default

- (1) If the [F<sup>22</sup>designated officer for a local justice] area receives a registration certificate, he must register the registrable sum for enforcement as a fine in that area by entering it in the register of a magistrates’ court acting for that area.
- (2) But if it appears to him that the defaulter does not reside in that area—
  - (a) subsection (1) does not apply to him; but
  - (b) he must cause the certificate to be sent to the person appearing to him to be the [F<sup>23</sup>designated officer for the local justice area in which the defaulter resides] .
- (3) A [F<sup>24</sup>designated officer] registering a sum under this section for enforcement as a fine, must give the defaulter notice of the registration.
- (4) The notice must—
  - (a) specify the amount of the sum registered, and
  - (b) give the information with respect to the offence, and the authority for registration, which was included in the registration certificate under section 8.
- (5) If a sum is registered in a magistrates’ court as a result of this section, any enactment referring (in whatever terms) to a fine imposed, or other sum adjudged to be paid, on conviction by such a court applies as if the registered sum were a fine imposed by that court on the conviction of the defaulter on the date on which the sum was registered.

#### Textual Amendments

**F22** Words in s. 9(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 400(2); S.I. 2005/910, art. 3

**F23** Words in s. 9(2)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 400(3); S.I. 2005/910, art. 3

**F24** Words in s. 9(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 400(4); S.I. 2005/910, art. 3

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## **10 Enforcement of fines**

- (1) In this section—
- “fine” means a sum which is enforceable as a fine as a result of section 9;
  - and
  - “proceedings” means proceedings for enforcing a fine.
- (2) Subsection (3) applies if, in any proceedings, the defaulter claims that he was not the person to whom the penalty notice concerned was issued.
- (3) The court may adjourn the proceedings for a period of not more than 28 days for the purpose of allowing that claim to be investigated.
- (4) On the resumption of proceedings that have been adjourned under subsection (3), the court must accept the defaulter’s claim unless it is shown, on a balance of probabilities, that he was the recipient of the penalty notice.
- (5) The court may set aside a fine in the interests of justice.
- (6) If the court does set a fine aside it must—
- (a) give such directions for further consideration of the case as it considers appropriate; or
  - (b) direct that no further action is to be taken in respect of the allegation that gave rise to the penalty notice concerned.

### *Interpretation*

## **11 Interpretation of Chapter 1**

In this Chapter—

- “chief officer of police” includes the Chief Constable of the British Transport Police;
- “defaulter” has the meaning given in section 8(5);
- “penalty notice” has the meaning given in section 2(4);
- “penalty offence” has the meaning given in section 1(1);
- “registrable sum” has the meaning given in section 8(4).



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