

2014 No. 320

ENVIRONMENTAL PROTECTION

**The Controlled Waste (Fixed Penalty Notices) (Scotland) Order
2014**

Made - - - - *19th November 2014*

Laid before the Scottish Parliament *21st November 2014*

Coming into force - - *1st April 2015*

The Scottish Ministers make the following Order in exercise of the power conferred by section 33A(8) of the Environmental Protection Act 1990(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Controlled Waste (Fixed Penalty Notices) (Scotland) Order 2014 and comes into force on 1st April 2015.

Form of fixed penalty notice

2. The form of notices under section 33A(8) of the Environmental Protection Act 1990 (fixed penalty notices for contraventions of section 33(1)(a) and (c))(b) is prescribed in the Schedule.

Revocation of Order

3. The Controlled Waste (Fixed Penalty Notices) (Scotland) Order 2004(c) is revoked.

RICHARD LOCHHEAD

A member of the Scottish Government

St Andrew's House,
Edinburgh
19th November 2014

(a) 1990 c.43; section 33A was added by section 55 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), and amended by paragraph 11 of schedule 3 to the Regulatory Reform (Scotland) Act 2014 (asp 3) and S.S.I. 2013/315.
(b) Section 33(1) was amended by S.S.I. 2009/247 and S.S.I. 2011/226.
(c) S.S.I. 2004/426.

SCHEDULE

Article 2

CONTRAVENTION OF SECTION 33 OF THE ENVIRONMENTAL PROTECTION ACT 1990 (“THE 1990 ACT”)

NOTICE OF OPPORTUNITY TO PAY FIXED PENALTY

The Environmental Protection Act 1990, section 33A

Alleged offender:

Address:

I, ^(a), an authorised person/a constable (delete as necessary) of ^(b) have reason to believe that on ^(c) you committed an offence, under section 33(1) ^(d) of the Environmental Protection Act 1990, at ^(e) This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. The circumstances alleged to constitute the offence are as follows: ^(f)

No proceedings will be taken for this offence before the expiration of fourteen days following the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during that period of fourteen days.

The amount of the fixed penalty is ^(g). It may be paid to ⁽ⁱ⁾ ^(h) at the following address:

Payment may be made by pre-paying and posting to ^(h) at ⁽ⁱ⁾ a letter containing the amount of the penalty. Payment may be in cash or by a cheque, postal order or money order made payable to ^(h) (if you are sending cash you are advised to send it by registered post). Payments made in this way will be regarded as having been made at the time at which the letter would be delivered in the ordinary course of post. Alternatively, payment may be made in person or by any other method.

Signature of authorised person/constable.....

Date.....

^(a) Insert name of authorised person or constable.

^(b) Insert name of local authority, Loch Lomond and The Trossachs National Park Authority, or, as the case may be, Police Scotland.

^(c) Insert date on which offence is alleged to have been committed.

^(d) Insert whether this is a contravention of section 33(1)(a) or 33(1)(c) of the 1990 Act.

^(e) Insert place where offence is alleged to have been committed.

^(f) Insert such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence.

^(g) Insert amount of £200, or any different amount for the time being specified by the Scottish Ministers under section 33A(10) of the 1990 Act.

^(h) Insert details of the person to whom the fixed penalty is to be paid.

⁽ⁱ⁾ Insert address at which payment is to be made.

Letter which may be used for payment by post

I enclose with this letter the amount of _____, being the fixed penalty for an offence under section 33(1) of the Environmental Protection Act 1990.

Signature.....

Name in Capitals.....

Date.....

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the form of notices under section 33A of the Environmental Protection Act 1990. A notice under section 33A may be given by an authorised person or a constable to a person who the authorised person or constable has reason to believe has committed an offence under section 33(1)(a) or (c) of that Act (offences related to the deposit, keeping or managing of controlled waste). The effect of giving the notice is that no proceedings shall be instituted for the offence before the expiration of fourteen days following the date of the notice, and that a person who pays the fixed penalty within that period shall not be convicted of the offence.

The Order revokes and replaces the Controlled Waste (Fixed Penalty Notices) (Scotland) Order 2004. It reflects amendments made by the Regulatory Reform (Scotland) Act 2014 to the effect that notices can be issued by “authorised persons”, being authorised officers of a local authority, authorised officers of Loch Lomond and The Trossachs National Park Authority, or such other persons as may be specified by order made by the Scottish Ministers.

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