



SCOTTISH EXECUTIVE

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Local Government Constitution & Governance Division

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**To: Chief Executives of all Scottish Local Authorities
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Your ref:
Our ref: LZV/1/3

30 May 2003

Dear Sir/Madam

DOG FOULING (SCOTLAND) ACT 2003 – DRAFT GUIDANCE

Further to my letter of 2 May, I attach a copy of the draft guidance to assist with the implementation of the above Act which comes into effect on 22 October 2003. I should be grateful if you could forward any comments you may have on the draft guidance to Patrick Down (tel: 0131 244 7050) at the above address, or by e-mail to patrick.down@scotland.gsi.gov.uk by **22 August 2003**. Following consideration of the responses received, we anticipate that the final version of the guidance will issue to interested parties no later than the end of September.

As indicated in my earlier letter the Executive is planning to undertake a national publicity campaign to make people aware of the new legislation and to promote responsible dog ownership. We hope that individual local authorities will take this opportunity to support this campaign at a local level. We are currently liaising with COSLA on this and in particular the method of engaging local authorities at an early stage in support of the national campaign and the scope for circulating good practice currently in place by individual local authorities.

Yours faithfully

ANN CALLAGHAN (MISS)



THE DOG FOULING (SCOTLAND) ACT 2003 - DRAFT GUIDANCE

Summary

1. The Dog Fouling (Scotland) Act 2003 comes into force on 22 October 2003. It replaces the existing dog fouling provisions contained at section 48 of the Civic Government (Scotland) Act 1982 which makes it an offence for a person to allow a dog to foul on certain public places such as footpaths and pavements. The 2003 Act changes the emphasis of the offence from allowing a dog to foul to failing to clear up after it. The Act also introduces new enforcement provisions which will allow local authorities and the police the option of issuing fixed penalty notices to those persons they believe have committed an offence.

2. Specifically the Act :

- makes it an offence for a person in charge of a dog to fail to remove and dispose appropriately of any excrement after the dog has fouled without reasonable excuse or the consent of the land owner/occupier;
- applies the provisions to all public places, including common passages, closes, courts, stairs, back greens and other similar areas subject to specified exceptions;
- removes the need for corroborative evidence in any subsequent proceedings;
- requires local authorities to authorise persons to issue fixed penalty notices in respect of the offence;
- empowers authorised local authority officers and police officers to issue fixed penalty notices to any person they believe has committed an offence under the Act as an alternative to prosecution;
- makes it an offence for a person suspected of having committed an offence under the Act to fail, without reasonable excuse, to give their name and address to an authorised local authority officer;
- allows the recipient of a fixed penalty notice to challenge its reasonableness by requesting a hearing within 28 days from the day after it was issued;
- specifies a fixed penalty of £40, increasing to £60 if not paid within 28 days from the day after it was issued, unless a hearing has been requested or the notice is withdrawn; and
- allows local authorities to enforce any unpaid fixed penalty as if it were an extract registered decree arbitral.

Section 1 - Offence

3. **Subsection (1)** provides that, subject to the exceptions contained in **subsections (1)(a) and (b)**, a person in charge of a dog that defecates on a place to which the Act applies and who fails to immediately remove the faeces will be guilty of an offence. This change of

emphasis from allowing a dog to foul to failing to clear up after it brings the new offence provisions into line with the Environment Protection Act 1990 which places a duty on local authorities to clean up refuse, including dog refuse, in their area.

4. There are two circumstances where the offence provisions would not apply. Firstly, **subsection (1)(a)** specifies that no offence is committed if the person has a reasonable excuse for failing to remove the faeces. An example of this could be if by removing the faeces this would create a risk of injury to the person in charge of the dog or to others (e.g. if the dog had fouled in the middle of a busy road). It will be for authorised local authority and police officers to determine what constitutes a “reasonable excuse” before deciding whether to issue a fixed penalty notice - but see also **subsection (3)(d)**.

5. It will therefore be for authorised local authority and police officers to consider individual circumstances in determining whether an offence has been committed and if a fixed penalty notice should be issued. In doing so they will wish to bear in mind that, in the event that the reasonableness of the fixed penalty is challenged, the matter may ultimately be determined through a criminal prosecution. It may therefore be that, in cases of doubt a warning, or a further opportunity to clear up, may be the more appropriate course of action.

6. It should also be borne in mind that there is no obligation on enforcement agencies to issue a fixed penalty notice on every occasion. While enforcement will be important, particularly in the months immediately following the Act’s introduction, the Executive wishes to encourage and educate the public to clear up whenever a dog fouls, irrespective of whether an enforcement officer is present. The Executive believes there will be occasions when a warning, or a further opportunity to clear up, may encourage more people to comply with the law on future occasions. However it will be for police forces and local authorities themselves to determine their policy on such matters and to instruct their enforcement officers accordingly.

7. Secondly, **subsection (1)(b)** disapplies the offence provisions if each person who owns, occupies or otherwise has control over the land has given permission that persons in charge of dogs that defecate on that land do not need to remove the excrement. Where there is more than one owner, occupier or other person or authority having control of the place, all must consent to dog fouling before there is an exemption to the offence. A specific example would be where there was a tenant and a landlord when both would be required to give consent. Permission could be given on an individual or collective basis and may be restricted to specific areas. If there is any doubt over whether permission has been granted it would be for the authorised local authority or police officer to establish the position by making such further inquiries as is considered necessary.

8. The Executive is conscious that the preceding paragraph will have implications for those local authorities who have designated dog exercise areas where fouling is tolerated. It will be for individual local authorities to determine whether such arrangements should continue. However, in considering such matters, the Executive would ask that local authorities take into account the fact that the message in the Act is that people in charge of a dog should clear up after it in all public places. Arguably continuing to allow dog fouling without any requirement to clear up after it in one specific area will send out a contradictory message to that contained in the Act. However, at the end of the day it will be for local authorities to decide if such arrangements should continue to be acceptable.

9. **Subsection (2)** provides that in cases where the offence is reported to the Procurator Fiscal any person found guilty of the new offence will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500). This will cover those cases where a person disputes the reasonableness of a fixed penalty and the Procurator Fiscal decides to prosecute or where it is considered that reporting the matter to the Procurator Fiscal is more appropriate than issuing a fixed penalty notice (e.g. repeat offender).

10. **Subsection (3)** clarifies a number of aspects with regard to the offence provisions contained in this section. **Subsection (3)(a)** creates a presumption that a person who is ordinarily in possession of a dog is regarded as being in charge of that dog at any time unless that person can prove that another person was in charge. It also aims to prevent people from evading the provisions by claiming that they were not in charge of a dog because it was not on a lead at the time. **Subsection (3)(b)** makes it clear that disposal of the faeces in a litter bin or in a bin specifically provided for the disposal of dog faeces is considered as being acceptable. However under the provisions of **subsection 3(c)** the throwing, depositing, dropping or otherwise leaving the faeces on any other place to which the Act applies is unacceptable and action may therefore be taken against anyone who does so. **Subsection (3)(d)** provides that being unaware of the defecation or not having a device to enable removal to take place are **not** considered to be a reasonable excuse under section 1(a) – see paragraph 4 above.

11. **Subsection (4)** removes the need for corroborative evidence to convict someone of the new offence which was one of the main difficulties under the provisions contained at section 48 of the Civic Government (Scotland) Act 1982. In addition to making it easier to take action against alleged offenders this will also allow authorised local authority and police officers the option of operating alone rather than in pairs.

12. The Act does not specify that the single witness to the offence need be the authorised local authority or police officer who issues the fixed penalty. It is possible for an officer to issue a fixed penalty on the basis of the evidence of a single member of the public. However, enforcement officers will wish to bear in mind the fact that an alleged offender may contest the fixed penalty notice by seeking a hearing in which case the papers will be passed to the Procurator Fiscal for consideration. Clearly, the more evidence that is available the better and we recommend that enforcement officers exercise caution in issuing fixed penalties for alleged offences they did not see on the basis of a single witness. Unless enforcement officers are 100% convinced as to the accuracy and reliability of the evidence, we would recommend that they might wish to consider giving the alleged offender a warning in such circumstances. Alternatively, or in addition to a warning, enforcement officers may wish to monitor the actions of the alleged offender.

Section 2 - Places to which Act applies

13. **Subsection (1)** applies the Act to any public open place. Public open place is defined at **subsection (3)** as “ (a) any place which is open to the open air and to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; and (b) any common passage, close, court, stair, back green, garden, yard or other similar common area.” The reference to “any section of the public” makes it clear that places which may be used by a specific class of members of the public, rather than generally by the public, are included as are places where access may be subject to certain conditions, e.g. the purchase of a ticket. It also emphasises that what matters is

whether members, or a section of, the public have access as a matter of fact, not whether they have permission to have access. **Subsection (4)** provides for any covered place open to the air on at least one side as being a place which is “open to the air”.

14. **Subsection (2)** exempts the provisions of the Act from “agricultural land” which is defined in **subsection 3** by reference to the definition of agricultural land in section 86(1) of the Agriculture (Scotland) Act 1948, i.e. “land used for agriculture which is so used for the purposes of a trade or business”. Under section 86(1) of the 1948 Act Scottish Ministers may designate land as “agricultural” for certain purposes even though it is not being used for agriculture. That land is not covered by the exemption until it is actually in use for agricultural purposes.

15. Applying the offence provisions to all public places is designed to avoid any confusion as to where they apply. Furthermore it helps to put the message contained in the Act across, i.e. that people should clear up after their dog no matter where they go. It is recognised that neither the police or local authorities will be in a position to enforce it throughout their area. However the provisions will allow for enforcement in those areas wherever dog fouling is considered to be a problem. In doing so it will be for the police and local authorities to prioritise and use their discretion accordingly.

Section 3 - Exceptions to offence

16. Section 3 disapplies the offence provisions contained at section 1 to certain categories of person.

17. **Subsection (1)(a)** exempts a blind person in charge of a dog that is being used for that person’s guidance. It should be noted that there is no requirement for the blind person to be registered blind.

18. **Subsection (1)(b)** removes the requirement to clear up for persons in charge of working dogs being used for the tending or driving of sheep or cattle. **Subsection (1)(c)** provides exceptions for members of the armed forces, Customs and Excise or the police force. **Subsection 1(d)** exempts those persons in charge of rescue dogs. All of these exceptions apply only when the dog is working.

19. **Subsection 1(e)** provides an exception for a disabled person in charge of a dog that has been trained to assist that person but only if the disabled person has a physical impairment that affects their mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects. Therefore disabled people who have assistance dogs will be subject to the offence provisions unless the disability affects their ability to clear up after their dog. The term “disabled person” has by virtue of section 15(1) the same meaning as provided by section 1 of the Disability Discrimination Act 1995, i.e. “a person has a disabilityif he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities”. In cases where there is any doubt as to whether a disabled person with a trained assistance dog falls into the exempt category it will be for authorised local authority and police officers to make a judgement call, making such further enquiries as they consider appropriate.

20. There is no specific exemption in the Act for partially sighted people, the very elderly or the infirm. Neither is there an exemption for blind or disabled people in charge of dogs which are not trained to assist them. However, authorised local authority officers and the police have discretion in deciding whether or not to issue someone they have reason to believe has committed an offence with a fixed penalty. An officer may wish to consider whether the individual's circumstances constitute a "reasonable excuse", under **Section 1(1)(a)**.

21. The Act also does not contain any exemption from the offence for children under the age of 16. The view taken during the Act's passage through the Parliament was that exemption children under the age of 16 could not only encourage circumvention of the legislation, but also dilute the message contained in the Act, i.e. that it is unacceptable for a person in charge of a dog not to clear up after it.

22. However, the Executive acknowledges that issuing a fixed penalty to such a person may present practical difficulties in recovering any penalty which remains unpaid. Someone under the age of 16 may not have the resources to pay any fixed penalty and the child's parents or legal guardian cannot be held liable for the payment of fines imposed upon a child. In the circumstances, we would suggest that it would perhaps be more appropriate to warn any such offender that they are breaking the law, and if the offence is repeated consider speaking or writing to the child's parents or guardian, rather than issuing a fixed penalty. If the child continues to commit the offence it may be that enforcement officers will have little option but to issue a fixed penalty notice, albeit with the knowledge that there could be problems recovering the amount if it remains unpaid.

Section 4 - Authorisation by local authority of persons to issue fixed penalty notices

23. This section requires local authorities to authorise in writing at least one person to issue fixed penalty notices for dog fouling in their area. It also empowers local authorities to authorise as many other persons as it considers necessary to carry out this function. The provisions do not restrict a local authority to authorising employees - it could, for example, authorise contractors to issue fixed penalty notices on its behalf if it considered this was the most effective method of enforcing the provisions.

24. The Act is not prescriptive in terms of the of officers that may be authorised by a local authority to issue fixed penalties. It will therefore be for each local authority to decide those staff that should be allowed to do so, based on an assessment of who is best placed and capable of doing so. Nor does the Act require authorised local authority officers to prove their identity. However we would recommend that local authorities issue authorised officers with some form of identification which they can produce on request. If anyone issued with a fixed penalty notice wishes to challenge whether a local authority officer was authorised to do so it would be open to them to request a hearing (see section 8) and, if necessary, for the courts to determine the outcome.

25. It will be for local authorities to ensure that their staff are adequately trained to carry out their duties. The level and nature of training provided to staff is, of course, a matter for individual local authorities. However we would recommend that local authorities consider the following:

Legislation - Staff should have a good understanding of the Act and its various requirements.

Council's policy - Staff should be aware of a Council's policy on matters which are not dealt with specifically in the legislation. For example, dealing with those under the age of 16, repeat offenders, warnings etc.

Dealing with the public - It is important that any staff authorised to issue fixed penalty notices know how to deal with the public, including those under the age of 16, particularly given that there is the potential for confrontational situations.

Safety - The safety of authorised officers is paramount and officers, particularly those working on their own, should be encouraged to seek assistance from colleagues or the police if difficult situations develop or are anticipated. In the event that this is not available quickly, or if officers have any fears over their personal safety before it arrives, they should be advised to withdraw. In the event that there are known trouble spots it is suggested that local authorities consider arranging for staff to operate in pairs or undertaking joint patrols with the police.

Section 5 - Issue of fixed penalty notices

26. Section 5 allows a person suspected of having committed an offence under the Act to be issued with a fixed penalty notice as an alternative to criminal prosecution.

27. **Subsection (1)** empowers an authorised officer of the local authority or a police constable to issue a fixed penalty notice to a person if they have reasonable grounds for suspecting that the person has committed an offence under the Act.

28. To assist enforcement **subsection (2)** empowers an authorised officer of a local authority to require any person suspected of committing an offence to provide his or her name and address. **Subsection (3)** requires that in doing so the authorised officer must inform the person that there are reasonable grounds for suspecting that an offence has been committed and that failure to provide the required information may be a criminal offence. **Subsection (4)** creates a new criminal offence whereby any person who is required to provide their name and address under **subsection (2)**, and fails to do so without a reasonable excuse, is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500). Corroborative evidence is required to secure a conviction for this offence.

29. For the avoidance of any doubt, it should be stressed that an authorised local authority officer does **not** have any powers to detain or arrest a person who fails to supply the required personal details. In such instances the authorised officer, if unaccompanied and in the absence of any other witnesses, should either seek police assistance or, if this is not available or practical, note details of the person and their dog. It may be that the identity of the person can be ascertained later and a fixed penalty issued. In any areas where particular problems exist in obtaining personal details of suspected persons local authorities may wish to consider approaching the police with a view to undertaking a joint operation.

30. **Subsection (5)** requires the fixed penalty notice to be issued as soon as reasonably practical after the commission of the alleged offence. It is anticipated that this will normally take place just after the commission of the alleged offence. However, it may be that circumstances dictate that this would not be practical or advisable, or that further enquiries

require to be made, before the notice can be issued. Consequently the Act allows a maximum period of 7 days after the alleged offence has been committed for any fixed penalty notice to be issued.

31. Where a police officer has issued a fixed penalty notice, **subsection (6)** requires a copy of the notice to be sent to the local authority in whose area the offence was committed no later than 24 hours after it was issued. This is designed to ensure that local authority records are up to date in the event that they receive payment or an enquiry relating to any fixed penalty notice issued by the police. Local authorities will also wish to ensure that details of any fixed penalty notice issued by an authorised local authority officer is notified timeously to those responsible for maintaining records and receiving payment.

32. **Subsection (7)** provides that a fixed penalty notice can be issued by handing it or delivering it to that person. While this will be the normal method of issuing fixed penalty notices, if an authorised local authority or police officer cannot do so, **subsection (8)** allows the notice to be left at the person's last known address or sent by post to that address.

33. **Subsection (9)** places a requirement on an authorised local authority or police officer who has issued a fixed penalty notice in accordance with **subsection 7**, i.e. by handing it or delivering it to the person, to send a copy of the notice by post to the person's last known address. This must be done as soon as reasonably practicable and no later than seven days after the notice was issued. This is to provide additional protection to innocent parties whose details may have been falsely given when the notice was issued personally. By receiving a copy notice any aggrieved party is in a position to either request a hearing under section 8, or contact the local authority seeking the withdrawal of the notice under the provisions of section 13, before any recovery action is instigated. In cases where the police issued the fixed penalty notice and the local authority consider there are grounds for withdrawal, contact will require to be made with the police as only they can authorise the withdrawal of such notices.

34. **Subsection (10)** provides that when a notice is issued by post under this section it is deemed to take effect at the time of posting and time limits will commence from that time.

Section 6 - Form of fixed penalty notices

35. **Subsection (1)** prescribes the information which must be shown on a fixed penalty notice issued by either an authorised local authority or police officer. A fixed penalty notice must:

(a) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the alleged offence – for example, the date, place and time at which the offence is alleged to have taken place;

(b) state the amount of the fixed penalty;

(c) state the name of the local authority and the address at which the fixed penalty may be paid;

(d) state the method by which payment of the fixed penalty may be made;

(e) inform the person of the right to request a hearing before the expiry of the period for paying and how that right may be exercised

(f) inform the person that no proceedings will be brought for the offence unless a notice requesting a hearing is given before the expiry of the period for paying; and

(g) inform the person of the consequences of not paying the fixed penalty before the expiry of the period for paying.

36. While these are the statutory requirements for any fixed penalty notices that are issued it is open to individual local authorities to include such other information as they consider appropriate. **In finalising the contents of such notices local authorities may wish to consider liaising with the police given that a supply of such notices will require to be forwarded to them for possible use from 22 October 2003 onwards.**

37. While the Act does not prescribe a specific form of notice, **subsection (2)** enables Scottish Ministers to do so by Order if they consider there is merit in having uniformity across the country. The Executive considers that it is not necessary to remove local authorities' discretion in this matter, but to assist their consideration an example of such a notice which complies with the requirements of section 6 is attached. As indicated above, it is open to local authorities to vary the format or to include such additional information as they consider necessary or appropriate.

38. Under the provisions of **subsection (3)** any Order made under **subsection (2)** may also amend, remove or add to the list of information which must be included in a fixed penalty notice under **subsection (1)** above. Any Order will require to be debated and approved by the Scottish Parliament.

Section 7 - Restrictions on proceedings

39. These provisions prevent criminal proceedings being brought for the offence of dog fouling against the person named in the fixed penalty notice, unless that person requests a hearing, before the expiry of the period for paying. Section 16 defines the "period for paying" as being 28 days from the day after the fixed penalty notice was issued. Section 7(b) allows criminal proceedings to take place where a fixed penalty notice has been withdrawn under the powers available to local authorities and the police under section 13. This is to ensure that, for example, if a fixed penalty is withdrawn in error, or on the basis of false information, action can still be taken against the alleged offender by referring the matter to the Procurator Fiscal.

Section 8 - Request for a hearing

40. The Act is intended to reduce the involvement of the Procurator Fiscal in cases of dog fouling. Consequently, the Procurator Fiscal only becomes involved in the event that the alleged offender disputes the legitimacy of the fixed penalty and the local authority or police are not prepared to withdraw it under the powers available to them at section 13.

41. **Subsection (1)** allows any person who has been issued with a fixed penalty notice to request a hearing provided that it is made within the period for paying. **Subsection (2)** requires any such request to be made in writing and to be sent by post or delivered to the

local authority at the address specified in the fixed penalty notice. The sending of a request by post is, under the terms of **subsection (3)**, deemed to have been effected at the time the request would arrive in the normal course of post.

42. **Subsection (4)** makes it clear that when a hearing is requested within the period for paying the fixed penalty is no longer payable. In such circumstances a person authorised by the local authority for the purpose of notification must provide the Procurator Fiscal with details of the request for a hearing **unless** the fixed penalty notice is withdrawn under the powers available to local authorities and the police at section 13. In cases where the request for a hearing is of a result of a fixed penalty notice issued by the police the local authority may, depending on the circumstances, wish to contact the police to ensure that there are no grounds for withdrawal before notifying the Procurator Fiscal. This is because only the police can withdraw notices which they have issued. The Procurator Fiscal will consider the matter in a similar manner to a report from the police and decide what action to take, including whether to initiate court proceedings. In the event of a conviction the offender would be liable to a fine of up to level 2 on the standard scale (£500), as prescribed by section 1(2).

Section 9 – Amount and payment of fixed penalty

43. **Subsection (1)** stipulates that the fixed penalty will be payable to the local authority in whose area the offence was committed. **Subsection (2)** sets the amount of the fixed penalty at an amount equal to 20% of level 1 (£200) on the standard scale, making the penalty £40. Specifying the amount in such a way ensures that the fixed penalty will increase in line with changes to the standard scale thus avoiding the need for any amendments to the Act. The percentage can be changed by Scottish Ministers under their order-making powers, subject to approval by Parliament.

44. **Subsection (3)** provides that a fixed penalty received by a local authority is to be treated as if it were a fine imposed by a district court. Section 23 of the District Courts (Scotland) Act 1975 states that fines imposed in the district court accrue to the local authority. Local authorities can therefore retain all monies received from fixed penalty notices, including those issued by the police, and these can be used to offset costs incurred in the enforcement and administration of the provisions.

Section 10 – Increase in fixed penalty

45. Where a fixed penalty has not been paid within the period for paying, and no request for a hearing has been received, the amount of the fixed penalty will be automatically increased by 10% of level 1 on the standard scale, i.e. to £60. As in the case of **section 9(2)** above, the percentage can by Order be amended, subject to approval by Parliament. There is no requirement under the Act for local authorities to notify offenders that the penalty has been increased – such information is required to be contained on the fixed penalty notice which is issued – see section 6. However, local authorities may wish to consider the merits of doing so prior to any recovery action being taken under section 11 (see below).

Section 11 - Recovery of unpaid fixed penalties

46. After the expiry of the period for paying, and on the basis that the fixed penalty notice has not been withdrawn under section 13, **section 11** allows a local authority to enforce the

unpaid fixed penalty, as increased under section 10, as if it were an extract registered decree arbitral. This allows a local authority to recover the penalty in the same way as a sum of money due under a civil court decree without the need for any application to a sheriff for the necessary order. It will be for individual authorities to determine how long they should wait for payment of the increased amount before instigating any recovery action.

Section 12 - Judicial determination of enforcement of fixed penalty

47. Section 12 provides a mechanism whereby disputes as to whether or not a fixed penalty has been paid or a hearing sought within the period for paying can be resolved by the courts. This is intended as a measure of last resort and it is hoped that any disputes that arise which are essentially administrative can be resolved without recourse to the courts. **Subsection (1)** enables a person against whom enforcement action is being taken under section 11 to apply to the sheriff by summary application with a view to obtaining a declaration that the fixed penalty should not be enforced because the fixed penalty has either been paid or a request for a hearing was made within the period for paying. **Subsection (2)** outlines the options available to the sheriff in determining the outcome of any such applications.

Section 13 - Withdrawal of fixed penalty notice

48. Section 13 allows an authorised local authority or police officer to withdraw a fixed penalty notice if it is subsequently considered that an offence was not committed or that the notice should not have been issued to the person named in the notice. An authorised local authority officer can only withdraw notices issued by the local authority and the police likewise can only withdraw those issued by a police officer. A fixed penalty notice might be withdrawn, for example, where it is subsequently established that the person to whom it was issued had consent from the owner and occupier of the land on which the alleged offence occurred (see section 1(b)). Another situation where a fixed penalty may have to be withdrawn is if it transpires that there has been a mistake as to the identity of the alleged offender and the fixed penalty should not have been issued to the person named in the notice.

Section 14 - Effect of Act on byelaws

49. While it is not certain whether there are any extant byelaws made under primary, private or local legislation which contain offences relating to dog fouling, section 14 ensures that these will cease to have effect when the Act comes into force. In addition any dog fouling byelaws which are inadvertently made after the Act comes into force shall not have any effect in so far as they apply to places covered by the Act .

50. Any questions on the content of this guidance should be addressed to either Alex Gibson (e-mail alex.gibson@scotland.gsi.gov.uk or telephone 0131 244 7042) or Patrick Down (e-mail patrick.down@scotland.gsi.gov.uk or telephone 0131 244 7050).

OUTLINE FIXED PENALTY NOTICE

DOG FOULING (SCOTLAND) ACT 2003

I have reasonable grounds for suspecting that:

INSERT NAME OF ALLEGED OFFENDER

of

INSERT ADDRESS

has committed an offence under section 1 of the Dog Fouling (Scotland) Act 2003.

Details of the offence:

INSERT PLACE, DATE, TIME AND NATURE OF OFFENCE plus any other information considered relevant. e.g. on 1 November 2003 at 14.30 hrs the above named person failed to clear up after a dog in his charge on the pavement outside 48 Main Street, Anytown.

This notice offers you the opportunity of discharging any liability to conviction for the offence by paying a fixed penalty of £40. Failure to discharge payment within 28 days from the day after this notice was issued will result in the fixed penalty increasing from £40 to £60. The local authority is authorised to begin proceedings to recover the increased amount at any time after the expiry of the period for paying referred to above without the need to obtain a court order.

Payment may be made by sending this notice with a INSERT PAYMENT METHODS ACCEPTABLE TO LOCAL AUTHORITY to INSERT NAME AND ADDRESS OF LOCAL AUTHORITY TO WHICH PAYMENT SHOULD BE MADE.

The person named on this notice may contest the fixed penalty by requesting a hearing within 28 days from the day after this fixed penalty notice was issued. No court proceedings will be brought for the offence unless a notice requesting a hearing is submitted. If you wish to contest this fixed penalty notice you may request a hearing by ticking the box below and returning this notice to INSERT NAME AND ADDRESS OF LOCAL AUTHORITY

Signed Date of Issue

TO BE COMPLETED BY RECIPIENT OF FIXED PENALTY NOTICE

I enclose payment of the appropriate fixed penalty.

I dispute the validity of this fixed penalty notice and wish to request a court hearing.

If you wish, please state why you are disputing the validity of this notice:

Signed..... Date.....