POLICY NOTE

THE ANIMAL HEALTH (FIXED PENALTY NOTICES) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 76A of the Animal Health Act 1981. The instrument is subject to affirmative procedure.

Summary Box

The instrument introduces fixed penalty notices (FPNs) for certain offences under the Animal Health Act 1981 and the Bees Act 1980 relating to breach of requirements of the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006, the Avian Influenza (Preventive Measures) (Scotland) Order 2007, the Bee Diseases and Pests Control (Scotland) Order 2007, the Bovine Viral Diarrhoea (Scotland) Order 2019, the Disease Control (Interim Measures) (Scotland) Order 2002, the Markets, Sales and Lairs Order 1925, the Sheep Scab (Scotland) Order 2010, and the Tuberculosis (Scotland) Order 2023.

Policy Objectives

The Animal Health (Fixed Penalty Notices) (Scotland) Regulations 2026 (the Regulations) will introduce a FPN scheme for certain offences under animal health and bee legislation. The scheme aims to provide enforcement agencies with a proportionate and efficient enforcement method that that does not require referral to the Crown Office and Procurator Fiscal Service (COPFS) but still provides a meaningful and dissuasive penalty for those who are considered to have committed an offence. FPNs are intended to support early redirection through behaviour change to promote compliance with animal health rules.

Under the Regulations, FPNs are a financial penalty that may be offered to a person alleged to have committed a relevant offence as an alternative to the case being referred to COPFS for consideration of criminal prosecution under relevant animal health legislation. The Regulations provide that a FPN may be issued, however, there is no compulsion to issue a FPN. The use of a FPN will not be suitable in every instance and it would be for those enforcing the legislation to determine when they will be used. FPNs are not designed for serious offences or for minor breaches where advice and guidance in the first instance would be sufficient in rectifying the issue. FPNs will complement existing enforcement options rather than replace them. Therefore, the option to use alternative enforcement measures, including offering verbal advice or written warnings, will continue to be available. Additionally, the option to prosecute instead of offering a FPN will continue to be available and may be used for more serious or repeat offending.

The regulations specify:

- the authorities that will be empowered to issue FPNs
- how FPNs must be issued
- the circumstances FPNs may not be issued
- how FPNs may be paid and the effect of doing so
- how FPNs can be appealed or withdrawn

- the procedure for intimating an intention not to pay a FPN
- the relevant offences that FPNs can be issued for
- the penalty level and amounts that will be applicable for each offence
- the circumstances in which a penalty amount could be increased or decreased

The Regulations create an offence relating to the obstruction of an authorised officer exercising functions in relation to FPNs.

The Regulations will also amend the Animal Health Act 1981 and the Bees Act 1980 to exclude the payment period for a FPN from the time limit for bringing criminal proceedings for an offence.

Regulation 3 provides a power to an authorised officer to issue a FPN where an authorised officer has reason to believe that a person has committed a relevant offence. For offences under the Animal Health Act 1981, an authorised officer is defined as an inspector, veterinary inspector or an officer of the local authority or a constable. In practice, local authorities are the primary enforcement body for offences under this Act. For offences under the Bees Act 1980, an authorised officer is defined as an authorised person under that Act and enforcement would be undertaken by Scottish Government Rural Payments and Inspections bee inspectors.
Regulation 4 lists the content that must be included within a FPN.

Regulation 5, along with Schedule 1 and 2, sets out the FPN amount for a relevant offence in relation to a relevant requirement.

Regulation 6 outlines the effect of paying a fixed penalty notice within the payment period and provides for authorised officers to extend the payment period if considered appropriate to do so.

Regulation 7 requires the payment of a FPN to be paid to the relevant enforcement authority with the method set out in the FPN.

Regulation 8 requires an authorised officer to withdraw a FPN in certain circumstances, for example if issued in error.

Regulation 9 sets out the appeals process for a person issued with a FPN.

Regulation 10 sets out the process for a person who receives a FPN to communicate their intention not to pay the FPN to the relevant enforcement authority.

Regulation 11 outlines the powers of authorised officers for the purposes of determining whether a fixed penalty notice should be issued under regulation 3(2).

Regulation 12 creates a new offence for anyone who obstructs an authorised officer who is exercising functions in relation to fixed penalty notices.
Regulation 13 requires enforcement authorities to make arrangements for the retention and storage of records specified within the regulation whenever a fixed penalty notice is issued for 3 years beginning with the date on which the fixed penalty notice was issued.

Regulation 14 amends the Bees Act 1980 by inserting a new provision to exclude the payment period for a FPN from the time limit for bringing criminal proceedings for an offence.

Regulation 15 amends section 75 of the Animal Health Act 1981 to exclude the payment period for a FPN from the time limit for bringing criminal proceedings for an offence.

Schedule 1 lists the relevant requirements under legislation and relevant offences in relation to which a FPN may be issued. It also notes the penalty level for breaching each requirement under legislation and sets out exclusions to certain relevant requirements

Schedule 2 sets out the penalty levels and fixed penalty amounts payable under each level.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Animal Health (Fixed Penalty Notices) (Scotland) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

A public consultation was held in 2019[1] seeking views on proposals to give Scottish Ministers the power to make regulations allowing FPNs to be used in relation to appropriate animal health offences. A full analysis of the responses to the 2019 consultation[2] is available on the Scottish Government website. The responses informed an amendment to the Animal Health Act 1981, made through the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 to give Scottish Ministers the power to make regulations allowing for FPNs to be used for certain animal health offences.

Building on feedback from the 2019 consultation, the Scottish Government consulted again in 2025 on detailed proposals for the animal health FPN scheme. The Animal Health FPN Scheme Consultation[3] ran from 7 March 2025 – 30 May 2025 and considered the general characteristics of the scheme, the penalty levels and amounts, and the offences the scheme

[1]2019 Consultation: https://consult.gov.scot/animal-welfare/animal-health-act-1981/
[2]2019 Consultation Analysis: https://www.gov.scot/publications/amendments-animal-health-act-1981-analysis-consultation-responses/
[3] 2025 Consultation: https://consult.gov.scot/animal-health-and-welfare/animal-health-fixed-penalty-notice-scheme/

would cover. A full analysis of the responses to the 2025 consultation is available on the Scottish Government website[4].

The 2025 consultation received 69 responses, of which 53 were from individuals and 16 were from organisations. A full list of organisations that responded to the consultation is available in the analysis report. The consultation responses provided useful feedback on the proposals for the animal health FPN scheme and have informed the development of the Regulations. The responses were broadly supportive, and the Regulations do not deviate from the majority of proposals.

Following the feedback received to the consultation, the Regulations do not include provision for allowing FPNs to be issued by email, nor do they provide for a shortened payment period as respondents did not consider these to be necessary.

Changes have been made to certain proposals as a result of the consultation. The discount for early repayment has been reduced to 25% as respondents considered the proposed 50% discount to be too high. In addition, the appeals process has been amended so that following an unsuccessful appeal, a person will have 28 days to make payment. The person will not be able to benefit from a discount for early repayment, and if the FPN remains unpaid after 28 days, it may be referred to COPFS for consideration of prosecution.

The consultation proposed seven penalty levels and set out the amount proposed for each level. The penalty amounts proposed were determined based on consultation with COPFS. Whilst respondents considered the proposed penalty amount for four of the seven levels to be too low, the difference between those that agreed and disagreed with the amounts proposed was marginal. The penalty levels contained in the Regulations have therefore not been amended from those proposed in the consultation.

The consultation set out proposals for a scale of harm, whereby the impact associated with the risk of disease spread is factored into calculations to determine the amount of the penalty. The intention was to recognise that, for the same offence, the risk of disease can be different as certain types of enterprises carry a greater risk than others. Whilst respondents were supportive of scale of harm proposals, having reviewed in detail how such a scheme might operate, the proposals have not been taken forward in the Regulations as the complexity the policy adds to the animal health FPN scheme could make it unworkable.

Outwith the public consultations, officials have also engaged with the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) and the Society of Chief Officers of Environmental Health in Scotland (SoCOEHS) through the Local Authority Animal Health and Welfare Strategy Group and Animal Health and Welfare Panel. In addition, discussions have been held with key stakeholders through the Scottish Government Animal Health and Welfare General Stakeholder Group, the Sheep Scab Industry Working Group, and the Bee Health Improvement Partnership. Members of these groups include (but are not limited to):

- National Farmers Union Scotland (NFUS)
- British Veterinary Association (BVA) Scotland
- Scottish Association of Meat Wholesalers (SAMW)
- Scottish Dairy Cattle Association (SCDA)

[4]2025 Consultation Analysis https://www.gov.scot/publications/animal-health-fixed-penalty-notice-scheme-consultation-analysis/

- Institute of Auctioneers and Appraisers Scotland (IAAS)
- Scottish Beef Association (SBA)
- Quality Meat Scotland (QMS)
- National Sheep Association (NSA)
- Scottish Beekeepers Association
- Bee Farmers Association
- British Horse Society

The Animal and Plant Health Agency (APHA), the Scottish Government Rural Payments and Inspection Directorate (SGRPID) have also provided insights into current enforcement arrangements, and have had an opportunity to respond to public consultations.

Impact Assessments

For the laying of this instrument, the following impact assessments have been undertaken:

- Business and Regulatory Impact Assessment (BRIA): this has been published alongside the instrument
- Children's Rights and Wellbeing Impact Assessment (CRWIA): this has been published alongside the instrument
- Equalities Impact Assessment (EQIA): this will be published on the Scottish Government website
- Data Protection Impact Assessment (DPIA): this will be published on the Scottish Government website

Financial Effects

A Final Business and Regulatory Impact Assessment (BRIA) has been completed and has been published alongside the Regulations.

The overall impact of this policy on business is anticipated to be positive, although it is recognised that those who are issued a FPN are likely to perceive this negatively. The Regulations insert an additional method to address certain animal health offences without the need to escalate cases to COPFS, thus potentially reducing costs associated with a court case. By addressing issues promptly, FPNs are expected to significantly reduce overall non-compliance. This will have a potential but unquantifiable benefit to wider public and animal health, and to trade through reduced likelihood of animal disease outbreaks which have a negative impact on animal health, international trade and, in cases of disease with zoonotic potential, public health.

Introducing a FPN scheme will involve initial setup costs for enforcement agencies, including training and updated guidance for new procedures. However, FPNs have potential to reduce the likelihood of a non compliance after the provision of oral/written advice. By providing enforcement agencies with the ability to tackle areas of non-compliance which are not effectively addressed through existing enforcement mechanisms, it is expected that there could be resource savings as responding to repeated issues of non-compliance would be reduced.

Scottish Government
Agriculture and Rural Economy Directorate
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