Draft Order laid before the Scottish Parliament under section 141(4)(a) of the Antisocial Behaviour etc. (Scotland) Act 2004, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

ANTI-SOCIAL BEHAVIOUR

The Antisocial Behaviour (Fixed Penalty Offences) (Miscellaneous Amendment) (Scotland) Order 2026

Made - - - -	*2026*
Coming into force - -	*26th March 2026*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 128(2)(b) and (c), 130(1) and 141(2)(b) of the Antisocial Behaviour etc. (Scotland) Act 2004(**a**) and all other powers enabling them to do so.

In accordance with section 141(4)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(**b**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Antisocial Behaviour (Fixed Penalty Offences) (Miscellaneous Amendment) (Scotland) Order 2026 and comes into force on 26 March 2026.

(2) In this Order—

"the 2004 Act" means the Antisocial Behaviour etc. (Scotland) Act 2004,

"the 2005 Order" means the Antisocial Behaviour (Amount of Fixed Penalty) (Scotland) Order 2005(**c**).

Amendments to the 2004 Act

2.—(1) Section 128(1) (fixed penalty offences) of the 2004 Act(**d**) is amended in accordance with paragraph (2).

(2) In Part 1 of the table—

(**a**) 2004 asp 8.

(**b**) By virtue of section 141(4)(a) of the Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act"), as modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) ("the 2010 Act"), orders made under section 128(2) of the 2004 Act are subject to the affirmative procedure. By virtue of section 141(3) of the 2004 Act, as modified by paragraph 2 of schedule 3 of the 2010 Act, orders made under section 130(1) of the 2004 Act are subject to the negative procedure. These powers are being exercised together to make this Order by virtue of section 33(2) of the 2010 Act, section 33(3) of which makes this Order subject to the affirmative procedure.

(**c**) S.S.I. 2005/110.

(**d**) Section 128(1) was relevantly amended by S.S.I. 2009/248.

(a) remove the entry for section 115 of the Licensing (Scotland) Act 2005 (disorderly conduct while drunk in licensed premises and other relevant premises),

(b) remove the entry for section 50(2) of the Civic Government (Scotland) Act 1982 (being drunk in a public place in charge of a child),

(c) after the entry for section 52(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 (vandalism), insert—

"Section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 10)	Threatening or abusive behaviour".

Amendment to the 2005 Order

3. In article 2 of the 2005 Order (amount of fixed penalty) for "£40" substitute "£70".

Saving provision

4. Articles 2 and 3 do not apply in respect of offences committed prior to 26 March 2026.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments which apply in relation to fixed penalty notices under section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act").

Article 2(2)(a) and (b) amends the list of offences in section 128(1) of the 2004 Act to remove the entries for two offences: disorderly conduct while drunk in licensed premises; and being drunk in a public place in charge of a child. This means that it will no longer be possible for a constable to issue a fixed penalty notice for such offences.

Article 2(2)(c) adds the offence of threatening or abusive behaviour to section 128(1) of the 2004 Act. This means that it will now be possible for a constable to issue a fixed penalty notice for such an offence.

Article 3 amends article 2 of the Antisocial Behaviour (Amount of Fixed Penalty) (Scotland) Order 2005 to increase the level of fine which can be imposed by a fixed penalty notice from £40 to £70.

Article 4 provides that the changes being made by articles 2 and 3 do not apply in respect of offences committed before 26 March 2026.

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